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Ripon.

POLITICAL STUDIES.

POLITICAL STUDIES.

BY

HON. GEORGE C. BRODRICK.

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PREFACE.

THE present volume embodies a few out of many Political Studies to which I have given my best thoughts during the last twenty-five years. Of these, by far the greater number, having appeared as articles in the daily Press, are excluded from republication. Those here preserved have been collected under the advice of friends, who have considered them worthy of more than ephemeral notice. One only—that on “The Roman Colonies under the Empire”—now appears for the first time. Like the Letters on “University Reform and College Fellowships,” and one or two other Essays contained in this volume, it is “political” only in that wider sense which comprehends everything that can interest or instruct a statesman.

With the exception of very slight verbal alterations, all the following papers are printed in their original form. No attempt has been made to revise the opinions expressed in them by the light of subsequent experience, to harmonize one with another, or even to correct such occasional repetitions of the same phrase or sentiment as must needs find their way into compositions of the same author, produced at long intervals, on kindred subjects, but with different objects. Each must therefore be judged by the date of its first publication. If a substantial unity of political faith shall be found to pervade and characterize the whole, it is due to the fact that I have seen no reason to change my political convictions, in any essential respect, since I first embraced them.

GEORGE C. BRODRICK.



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UNIVERSITY PRIZE ESSAY.

READ IN THE THEATRE, OXFORD,

June 20, 1855.

THE DIFFERENT PRINCIPLES ON WHICH THE CHIEF SYSTEMS OF POPULAR REPRESENTATION HAVE BEEN BASED IN ANCIENT AND MODERN TIMES.

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THE moral greatness of political societies is not to be measured solely by the form of their institutions. Forms of polity are analogous to bodily organization; they owe all their force and expression to the soul which animates them, to the living spirit of the people. Considered apart from the soul, the body-politic is a lifeless corpse, and the study of it mere anatomy,—a matter of curious and necessary research, but subordinate to the sublimer aims of political philosophy. These aims, indeed, can never be fully realized; for the inner life of individual states, as of individual human beings, is an inscrutable mystery. Still, even in the external aspect of nations, there are many features besides their forms of government; and in estimating the actual state of any particular community, its ethnological origin, its language, its civilization, the spirit of its laws, above all, the character of its religion, all the elements, in short, which constitute its identity, are to be viewed as so many agents co-operating with, and in a great degree modifying, the influence of its constitution. "Institutions," it has been said, "do not decide all in the life of nations;"¹ that is, they are neither the sole cause nor the sole index of national well-being, which depends on many other conditions, and, like beauty, results less from the absolute excellence of its component parts, than from their harmonious combination.

It is only then in an abstract sense that one representative

¹ Guizot, *Civilization in France*, lect. III.

system, or even one form of government, can be ranked above another. The philosopher may and ought to compare and test them by the evidence of general history; but the statesman must consider how far each is applicable to the present wants and circumstances of his country, the antecedents of which will be found in its own past history. Thus history stands in a double relation to politics, furnishing the materials of their general conclusions, and teaching the conditions of their practical application. But there is a third function of history, akin to both of these,—to record the varieties of political opinions, to examine the “different principles on which the chief systems have been based” by their advocates, and divesting each from the accidents which encumber it in practice, to assign its true scientific position and value. If the less perfect forms have been consistent with national virtue and happiness; if the more perfect have sometimes been associated with crimes and misery; it is because the previous history or present circumstances of the individual nation have brought it into harmony with inferior institutions, or rendered it incapable of bearing better. Though institutions, no less than words, depend for their signification on the character of those that use them, great truths are not falsified even when they are proclaimed by unworthy voices. However difficult it may be in politics to assign particular events to particular causes, however great the temptation to make, with Montesquieu,¹ the science relative and the art empirical, historical impartiality demands the effort. Political as well as philosophical doctrines do differ for the better or worse, though few can be stated as universally or eternally applicable, and it is because they so differ that a comparison of Representative systems is possible.

What then is the primary and essential idea of Representation, divested of its overgrowth of associations? It is the delegation² of power to deputies freely chosen. If the body so represented be the people, the Representation is popular; and this is in fact by far the commonest species, because the Third

¹ *Spirit of the Laws*, I. 1, 3.

² “Delegation” is here used in a general sense, without reference to the degree of control retained by the electors.

Estate (third, not in relative importance, but in the date of its admission to power,) is, generally speaking, the only one too numerous, too constantly employed, and too ignorant, to appear for itself. Thus too, though the power delegated is not necessarily legislative, yet since this power is the mainspring of government, and since the executive and judicial are more conveniently exercised by officers differently appointed, legislation is held to be the characteristic function of the popular delegates. Again, the mode of their election, and the duration and responsibility of their office, are considerations not strictly essential to the notion of "Representation," however important to the public interest.¹ But the original freedom of choice is an indispensable condition of "Representation" in the political sense,—a sense which jealously excludes all but the *bonâ fide* nominees of the represented order. The case in which one class nominates persons to represent another, even where the interests of the two parties are supposed to coincide, is one of accidental or fictitious Representation.

Such being the distinctive character of Representation, let us first examine the opinion which restricts its history, together with that of mixed government,² to a few centuries, and a few of the more civilized nations of modern Europe.³ The limitation of place is more tenable than that of time. In the Jewish theocracy, or beneath the vast shadow of Oriental despotism, during the Egyptian, Assyrian, and Persian dynasties, in the wild hordes of Attila and Jenghis Khan, among the passive millions who thronged the gorgeous court of Delhi, or beside the dreary civilization of China, the political rights implied in Representation could not have subsisted, though some have discerned in the system of caste a faint analogy to constitutional

¹ Lord Bringham includes them in his definition: Political Philosophy, III. vi. 37.

² The well-known opinion of Tacitus (Ann. IV. 33.) respecting the impracticability of mixed government, is contrary to that expressed by Cicero in the Republic, whose view is embraced by Machiavelli, as well as Algernon Sidney.

³ Lewis compares Representative government to fire-arms, or the steam-engine: Observation and Reasoning in Politics, ch. xxii. sect. 24. Comp. Creasy on the Constitution, p. 188; Heeren's Ancient Greece, p. 167; Bringham, Pol. Phil. I. ii. and III. vi.

government.¹ In the wide African continent it remains absolutely unknown. It was not found among the strange institutions ruthlessly demolished by Cortes and Pizarro,—institutions in which so much of regular government was mingled with fantastic barbarism.² It has no place in the rude polities which have followed the type of military subordination. Sprung from the perilous crises through which Europe has passed in its progress from an age of conquest to an age of peaceful self-development, it has been transplanted by European colonists to other quarters of the globe.³ But though indigenous to one continent, it has appeared in germ at more than one epoch. It is to be found where all other noble works of unassisted human nature are to be found,—in the free commonwealths of Greece, and the well-balanced aristocracy of Rome.

It is true that antiquity furnishes very few, and those very dubious, instances of "Representation," corresponding to any form now existing. The internal legislation, whether of oligarchies or democracies, was transacted in the first instance by all qualified citizens in person, and not through deputies.⁴ In most, however, of the Greek states, as well as in Rome and her dependencies, many of the more arduous legislative functions were confided to a smaller chamber, more or less amenable to the popular assembly. When the members of these councils were elected, like those of the Spartan *γερονσία*, and other legislative bodies similarly constituted,⁵ for life, and rather as state-advisers than as delegates of popular interests, we seek in vain for the representative principle. But the Athenian *βουλή* and the like assemblies, annually elected by democratic states, differed little from a modern House of Commons, except in their independence of any "Crown," or aristocratic coadjutors, and in the material circumstance that they were appointed by lot, and not by suffrage.⁶ A fatal defect, had it not been partially counter-

¹ Newman, *Contrasts between Ancient and Modern History*, Lect. III.

² Robertson's *America*, vol. III. bk. vii. pp. 288, 331.

³ The latest, and not the most successful case, is that of New Zealand.

⁴ Heeren, *Ancient Greece*, p. 166.

⁵ As at Corinth. Plutarch, *Op. ii.* p. 177. The name *γερονσία* was often adopted.

⁶ Compare Brougham, *Pol. Phil. iii.* 7. with *I. ii.* p. 89.

acted by their strict responsibility to the *ἐκκλησία*: whence they have been called, notwithstanding their exclusive right of originating, "mere committees of the mob."¹ The Roman Senate, on the contrary, like the Diets of Poland and Hungary, originally represented a very numerous aristocracy. But as the power of the *comitia* declined, and after the attempt to govern the world with the constitution of a municipality had ended in despotism, the Senate, degraded as it was, acquired a semi-popular character; and, though its initiative had never been more than nominal,² hazarded, together with the delegates of provincial councils, an occasional resistance to the Emperors.³

But if the spirit and purpose, rather than the form or name, of institutions be regarded, the essence of Representation may be discovered more certainly under two less obvious forms,—the one executive, in the choice of public officers; the other federative, in international congresses.

Those powers which modern statesmanship has wisely kept independent,—the legislative, the administrative, and the judicial,—were in all the republics of antiquity vested in the sovereign people. Judges and magistrates were popular representatives, and the state of parties registered itself in the laws relating to their election. The Athenian archons and Areopagus, like the justiza of Arragon,⁴ were somewhat aristocratic, while the Prytaneis and Strategi were the expression of pure democracy:⁵ whereas in Sparta the Ephori acted as a popular check on the *γερονσία*.⁶ The constitutional history of Rome is a series of changes in the representation, broken by the attempted coalition of parties in the second Decemvirate, and ending in a sweeping abolition of restrictions ushered in by the great Reform

¹ Hermann, *Political Antiquities of Greece*, ch. iii. sect. 54. Comp. Heeren's *Ancient Greece*, ch. ix. p. 168.

² See Livy, i. 17.

³ Palgrave on the *English Commonwealth*, I. x. 343; and article "Senatus" in Smith's *Dict. Antiq.*, where its character as a representative body is fully established.

⁴ The justiza was necessarily chosen from the "infanzones," who, unlike the "ricosombres," could not appear in Cortes by proxy, and, unlike the burghers, had no representatives.—Hallam, *Middle Ages*, I. iv. p. 415–423.

⁵ See the chapter on Clisthenes' Constitution in Grote's *Hist. of Greece*, vol. iv.

⁶ See Aristotle's *Politics*, ii., and article "Ephori" in Smith's *Dict. of Ant.*

Bill of Licinius. For in such societies mere legislation is the least valuable of rights; tribunes,¹ or a consul, annually chosen by the commons, and armed with a veto and judicial power, were far more efficient representatives than a deliberative chamber.

Ancient federal representation was of two kinds, exemplified respectively by the great Amphictyony and the Achæan League. In the former the several members of the confederacy, whether it was of tribes, as the Amphictyonic League, or of cities, as the Bœotian and others, possessed an equal share of votes, and sent a fixed number of representatives, appointed by the separate governments, just as in a modern diplomatic congress. If, as we cannot doubt, the deputies were entrusted with discretionary powers, there is here a complete instance of representation; the right of internal self-government being reserved, as in the German Diet, by each confederate.² But for this, the analogy would be striking between these councils and the American Senate; nor are there wanting traces of a lower and more mixed assembly, similar perhaps to the "House of Representatives."³ No such regular delegation is to be found in the conventions of the Achæan League at Cegium, where the single collective vote of each state was determined by the majority of its citizens actually present. The principle of the Lycian League was somewhat different, for the proportion of votes was graduated according to the size of the cities, a refinement of representation strongly contrasted with the ancient practice in England.⁴ Those few individuals whose occupations permitted them to vote in person at a distance from home, acted as the self-chosen representatives of the absent, an anomaly faithfully copied by Rome in the enfranchisement of her colonies and "*municipia*." True representation unites the notions of liberty and centraliza-

¹ That the tribunes "represented" first the *plebs* only, then the whole people, is asserted by Niebuhr, *Hist. of Rome*, end of vol. i.

² See Wheaton on International Law, I. ii. 12.

³ De Tocqueville shews that while the federative principle or independence of the States predominated in the formation of the Senate, the sovereignty of the nation predominated in that of the House of Representatives.—*Democracy in America*, i. viii.

⁴ See an article in a recent number of the "*North British Review*," entitled "*Greece during the Macedonian Period*."

tion. Such an union, the key-stone of almost all great political unities in modern Europe, was inconceivable to the ancients. The Greek liberty was the independence of individuals and municipalities; the Roman centralization was metropolitan tyranny. Other defects in their systems will be mentioned in their proper place: meanwhile there is one fact of unhappy significance. The true principle was adopted too late, and by those in whose hands it was sure to fail. The deputies delegated to Rome by provincial cities under Augustus¹ would be called in the nineteenth century "colonial representatives," and the project of Honorius and Theodosius for a representative assembly of Gaul at Arles, was an ingenious attempt to give galvanic activity to an already lifeless organism.²

Such are the chief anticipations of the representative system among the ancients. For the indirect mode of reckoning votes by "tribes" or "centuries" in the Roman Comitia, and the provision by which the richer citizens contributed in the name of the rest in the Athenian *συμμορλαι*, are rather to be considered substitutes for representation: nor can much stress be laid on the conjecture of "a popular representative body," existing side by side with the *πρόβουλοι*, under the name of *σύνκλητοι*, in oligarchical states.³ The cause of liberty needs not to strain historical parallels for the support of its fundamental principles. If the representative system was little known to Greek politicians, it was because the spirit, of which it is the expression, was postulated as a condition of national existence.⁴ Those early legislators, while they prescribed stringent rules for individual conduct, and embodied in law the infant science of morality, had not learnt the hard lesson of experience,—how short-lived are political sentiments where they are not protected by legal guarantees. To them freedom was the inmost life of

¹ Merivale's Hist. of the Romans under the Empire, III. xxxii. p. 527. Compare Palgrave, Engl. Comm., I. x. 340.

² Guizot, Civilization in Europe, lect. ii. Palgrave considers "this constitution a regulation of an institution already existing." Engl. Comm., I. x. 336.

³ This is a theory of Wachsmuth's, III. i. sect. 188, quoted by Hermann, iii. sect. 54, and founded on Arist. Pol., III. i. 7.

⁴ According to Heeren, p. 157, all Greek constitutions were theoretically free; a statement in which Hermann agrees, oh. iii. sect. 51.

those institutions which they only aspired to reform, while they referred their creation to some divine original. And thus their labour was lost, not indeed to their own country or age, but to the general progress of humanity. The destiny of the Greek Republics, as of all the favourite essays of liberty till the downfall of the Roman Empire, possesses a mournful interest. Too generous to guard themselves with the cumbrous armour of a complex polity, they fell an easy prey to the foreigner or the demagogue, and were successively reduced, after their brief career of glory, to the semi-barbarous state of liberty without order, or to the still lower depth of order without liberty.

From the heroic age of freedom, let us turn to that in which its real conquests have been won. The steps in the struggle are ever the same: first the arbitrary assumptions of mere selfish despotism; then the maxim, "Everything for the people and nothing by the people;" lastly, the claim of the commons to a share through their representatives in public affairs. A crisis is now at hand which must end in one of two results. If the Crown and aristocracy combine to crush the people, their cause will have been permanently injured by the assertion of their rights; if not, their virtual sovereignty is secured. For history proves decisively that, where an adequate system of popular representation exists, misgovernment in its worst form can exist no longer.

The differences, therefore, between representative systems are differences of vital moment. And these depend, first and principally, on the greater or less extension of the representative principle, according to the qualification prescribed for the electors and representatives; secondly, on the mode of election; thirdly, on the subsequent relations of the popular representatives to their constituents, and to the other powers of the State.

The various theories entertained on these several questions have been more or less realized in facts. Each has had its turn in different countries and epochs, underlying and severing into diverse channels the current of politics, which seemed to be guided only by the impulse of superficial events.

I. The represented class has been limited by one of four prin-

ciples, corresponding respectively to distinct ideas of the origin of power. Of these, the most comprehensive is that of universal suffrage, by which the franchise is conferred on the whole male population of full age and sound mind; no state having hitherto claimed for women and children rights from which nature excludes them, and which the largest and best part of themselves would be the first to renounce. The second is that which, alleging the unfitness of many, if not of most, persons to make a deliberate choice, proposes a qualification of intelligence. The third, while it takes little note of intellectual or moral aptitude, requires an interest or "stake" in the national prosperity; a tie generally sought in pecuniary investments, and, more particularly, in the tenure of land. The fourth system considers the franchise, not as a right, whether of humanity or citizenship, but as the property of the existing Government, and to be bestowed either on "those who will not misuse it," or on those without whose consent the measures proposed cannot be executed.

The last and least liberal system naturally occupies the first place in an historical enquiry. It is that which tacitly prevailed during the embryo state of European liberty under the Plantagenet and Capetian dynasties of the thirteenth and fourteenth centuries, and even in the comparatively constitutional monarchies of Arragon and Castile at the same epoch.

According to this principle alone, all expression of the popular will is at the discretion of the established, and therefore legitimate, governors. The term "trusts" is applied, not to the powers exercised on behalf of society by its officers, but to those conferred by those officers on society. In the infancy of political communities, so undisguised a sanction of absolutism does not wear so extravagant an air as it does in an age when inequalities of rights are no longer supported by a real superiority of the privileged class, or by the recollection of their substantial services to the state. The utmost that could then be expected by those who had hitherto congratulated themselves on the enjoyment of certain municipal immunities, was that their counsel should be asked on matters falling immediately

under their cognizance, and affecting their interests directly.¹ Even the commissions issued now and then by the more prudent monarchs, the “*missi dominici*” of Charlemagne, the “knights” summoned to report on grievances by the Conqueror, and the royal judges of Philip Augustus and Henry II., were a boon to those whose wants and interests were habitually and grossly neglected.² All such expedients, however, fell miserably short of representation. The royal emissaries belonged to different classes and localities from those whose complaints they received. Their functions differed little from those of a Persian satrap or Roman proconsul; their sympathy with the commons hardly exceeded that of a modern relieving-officer with the paupers in his district; they were not the representatives of the people’s choice. In the thirteenth century this right was conceded in most European countries; old institutions became invested with new importance; towns elected burgesses to serve in Parliament with the same freedom as borough-magistrates; freeholders, in England, at least, chose knights of the shire in their own county courts. The suffrage was limited by themselves rather than by the Crown,³ which exercised its prerogative by enfranchising and disfranchising whole boroughs at pleasure, not by fixing any electoral qualification to the exclusion of the poorer classes. The formation of a House of Commons and States-general, even on this precarious footing, was a great and lasting step towards popular government.

Though the franchise was in effect a piece of patronage, employed by the Crown to counterbalance the aristocracy, and though it was apportioned locally, and with little regard to the comparative national importance of classes, two principles of distribution—the one founded on personal capacity, the other on a personal interest in the proposed legislation—already began to shape themselves into valid claims, and now mark respect-

¹ Some suppose the borough-magistrates to have attended the Saxon Witenagemote occasionally for this purpose. Creasy on the Constit., p. 183.

² Comp. Hallam, *Mid. Ages*, I. ch. ii. part ii. pp. 161 and 190, and II. viii. part ii. p. 119, with Guizot, *Civil. in France*, vol. III. lect. xv. Certain executive powers were often attached to the judicial, and Palgrave regards justices in eyre and coroners in England as a species of popular representatives. *Engl. Comm.*, I. ix. 297.

³ Till the famous Act 8 Hen. VI. when the 40s. franchise was fixed as a means of checking disorder. *Middle Ages*, II. ch. viii. part iii. p. 243.

ively opposite theories of representation. The former, indeed, was recognised then, as now, rather theoretically than in practice; and is to be traced chiefly in the general language of the period, and the constant appeals to the "advice" of the Commons on difficult questions.¹

But the latter was so familiar an idea, that it may well be doubted whether this be not the proximate cause of modern representation. Popular deputies were often summoned from those towns alone which were concerned in the measures to be discussed, or capable of voting the required subsidies. In England, sometimes the Commons were consulted without the Lords, sometimes the representatives of the counties or maritime cities only, sometimes the ecclesiastical deputies, were privately convened; and in all cases a discretionary power of summoning belonged to the royal sheriff.²

The natural physiognomy of one age becomes hideous and deformed when it is forcibly impressed on another. The third estate, just emerging from the bosom of the feudal system, needed not to be ashamed of its dependence on the Crown, for the state of wardship is appropriate to the age of infancy. But since the Commons, originally a body of poor husbandmen and artizans, have advanced first to the rank of a power co-ordinate with royalty and aristocracy, then to an immense preponderance, not only of numbers, but of wealth and intelligence, the boasted guardianship of the upper classes is no longer tolerable:³—

"Sed quis custodiet ipsos

"Custodes?"

The common saying that the franchise should be granted (by the existing rulers) to those "who will not misuse it," or (more

¹ As in Philip the Fair's contest with Pope Boniface, A.D. 1308. The same monarch, engaged in his persecution of the Templars, "that he might not be censured, wished to have the judgment and consent of men of every condition in the kingdom."—Canon of St. Victor, quoted by Guizot, *Civ. in France*, III., xv. 275. Such expressions constantly occur in the writs of our own kings about the same time. See Brougham, III. vi. 36.

² See Hallam, *Middle Ages*, II. ch. viii. part 3.

³ Yet Tremmenheere maintains that the franchise is "a privilege to be conferred by the governing power on as many as it may be deemed expedient," &c.—*Political Experience of the Ancients*, p. 133.

gently stated) that the people have a right to "nothing which will make them unhappy,"¹ and the corresponding practice, not yet extinct, of summoning popular representatives, not to discuss, but expressly to sanction, the proposals to be laid before them,² imply a theory of liberty lower, if anything, than that of the middle ages, and even than the enlightened policy of Charlemagne, in the ninth century.³

A time comes to every nation when the contentment of dependence ceases to satisfy, and even the most equitable institutions are distasteful, if they have no other than an arbitrary foundation. The downward stream of royal or aristocratic bounty is met by the upward current of independent claims, the assertion of rights mingles with the acceptance of favours, and gradually absorbs it: commerce introduces ideas of self-reliance and self-aggrandisement; the age of political minority is at an end. It is precisely this anomalous state of facts and ideas that is suited to a representative government with a property qualification,—a qualification popular in its origin, but aristocratic in its results; and it is because it has been the aim of cautious politicians to perpetuate, as it were, this process of conflux between concessions and demands, that property has prevailed over all other qualifications as the standard of fitness both for electors and representatives. No compromise was ever more successful. Property has all the aristocratic tendencies of birth, without exciting the same jealousy.⁴ The European nobility abandoned with a better grace some of their personal and hereditary pretensions, when they found how much power they should retain as the "landed interest;" and the people have acquiesced in a qualification which makes the suffrage in some measure the reward of industry. Wealth has become the medium of reconciliation between the few and the many, by abolishing all permanent distinctions among citizens, and has

¹ Sydney Smith on "the Ballot."

² Last year (1854) the King of Denmark summoned the representative body avowedly to confirm certain alterations of the constitution, warning them against opposition.

³ Guizot quotes a very strong statement of Hincmar, as to the free expression of opinion encouraged in Charlemagne's "placita."—Representative Government, lect. xx. p. 164.

⁴ See Arnold's Hist. of Rome, vol. I. ch. v. p. 72.

silenced the question between "rights" and "trusts" by constantly attaching a partnership in government, in other words, a share of representation, to the rights of property. The growth of property in its two forms, real and personal, was the forerunner of modern representation; a system as different in principle from the moderate timocracies of Servius and Solon, as from a pure aristocracy of caste. Let us retrace this double origin of property.

The rise of the Teutonic nations is the grand climacteric of civilization, the inauguration of an epoch only terminated by the French Revolution. All the conquests and hopes of humanity had been swallowed up by one vast empire, which was fast sinking by its own unparalleled corruption into the death of second barbarism. The old order of things was "without form, and void," society was one blank and stagnant mass, devoid of energy or aspirations, and the outburst of individual liberty in the fifth century was as when the pre-Adamite earth was peopled with a new race of beings. The peculiar structure of modern society is a result, though not an immediate result, of the barbaric invasions, and the transition-state was the feudal system. Individual liberty, as it existed among the Germans, cannot fail to develope individual superiority; and upon this rough, but still real, qualification was based the whole distribution both of landed property and political power. The two things were vested by a simultaneous movement in those who alone were capable of retaining either; the possession of the one was not at first a claim to the possession of the other; and the principle by which the balance of political preponderance depends on the laws regulating the subdivision of property, had its origin in circumstances before it was adopted by design. Still, however it be explained, the "feudal hierarchy" was an association of proprietors. Facts grew into rights, and land-owners survived suzerains. Whatever elements were saved from the wreck of feudalism, and embodied in the rising system of representation, retained the stamp of a political *régime* in which landed property was power.¹

¹ See Mill's Political Economy, bk. I. ch. xi. sect. 4; and compare Harrington's, Oceana, pp. 51 and 189, Ed. 1770.

The representation of personal property dates from the enfranchisement of the towns,—corporations independent of, or rather antagonistic to, feudalism, and which now formed the larger and more popular element in the Third Estate.¹ When the three great powers, hitherto almost independent, the king, the barons, and the boroughs, found themselves, as centralization increased, legislating for the entire commonwealth, the towns alone felt the need of regular representation. Unlike the clergy and county-vassals, they had no friends at court, and consisted from the first of classes too numerous to appear in person. The rise of the municipalities was therefore in most countries the rise of the people,² for of the mere country-population, whether small freeholders, or those whose tenure was “base,” little account was taken, except in the English county-courts.³ A highly democratic basis of representation might thus have been naturally expected. But the towns, however forward in the assertion of popular rights in the national council, were not themselves democratically organized. Laon and Ghent, and still more Florence and Milan, bore little resemblance to Marseilles or Manchester in the nineteenth century. On the remains of the aristocratic constitution inherited from the Roman colonies, was founded a commercial aristocracy fenced by the privileges of crafts and guilds, the “capitalists” of those days. The local machinery of boroughs as well as counties was adapted without change to the choice of representatives, and civic oligarchies ostentatiously represented in the imperial government the very interests which at home they had ever striven to depress, and which in England they were destined to overpower for several subsequent centuries.

The property-qualification was thus established in the counties and towns. That it was the only qualification was due to the selfish purpose for which popular representatives were convened. Abstract justice has ever been a feeble motive of human

¹ See Guizot, *Repres. Govt.*, lect. xiv. ; and Hallam, *Middle Ages*, vol. ii. ch. viii. part iii.

² In France, however, as Guizot explains, the Third Estate continued to rise when the boroughs were on the decline.—*Civil. in France*, vol. III. lect. xix.

³ Compare on this point, *Middle Ages*, II. ch. viii. pp. 73, 148, 152, and 242, with Brougham, *Pol. Phil.*, III. vii. 42.

conduct, and had the rise of the Third Estate depended on the just appreciation of its importance, it might have been long deferred. In Spain, probably a sentiment of gratitude for their services against the Moors, and of awe for the independent spirit thereby engendered, mingled with financial considerations in the incorporation and subsequent representation of those ancient boroughs, at least a century before other European towns.¹ In Italy, patriotism combined with the commercial spirit to ennoble the citizens. But in France, Germany, and England, how low was the estimate formed of their legislative functions, both by the popular deputies themselves, and by the other orders of the State, is manifest throughout the middle ages. Even the British Commons, tenacious as they were of their national liberties, shrank from advising Edward III. on a question of peace and war;² and so late as the fifteenth century, Philip de Comines, whose testimony to the English provincial members is most striking,³ speaks of a deputation sent by the Three Estates of the great city of Ghent in terms of insolent contempt.⁴ The noblest institutions have often their origin in the selfish blindness of mankind, and display not till their after-development the true secret of their strength. And thus it was with popular representation. Between a prince and the representatives of those whose chief magistrate it is his highest title to be, the first transactions were almost wholly mercenary; the power by which they checked his will was the power of the purse; their constituents were such persons as were rich enough to contribute towards his expenses; "representation" was, in fact as well as in theory, "co-extensive with taxation."

¹ The charters of Castile and Arragon are of the eleventh century. The representation of the boroughs begins in the twelfth. Robertson, *View of the State of Europe*, sect. iii. pp. 187-190, and note xxxv. Middle Ages, I. iv. The charters were always purchased at a high price.

² Middle Ages, II. ch. viii. part iii. p. 185. Hume, ch. xv. A.D. 1333.

³ *Memoirs*, bk. VI. ch. ii. He says the country members were "persons of wisdom and penetration, and not pensioners of the King of France, as the rest were."

⁴ "The persons with whom he was now to deal were brutes and townsmen, and such as had not the least acquaintance or knowledge in the tricks and juggle of state-affairs. Our king (Louis XI.) knew well enough how to take advantage of their ignorance, and did all that was proper to advance his own interest and destroy his enemies."—*Memoirs*, bk. V. ch. xvi.

When to these causes is added the general fluctuation of social interests and ranks which distinguishes the same period, and the consequent difficulty of establishing the franchise on any other footing short of universal suffrage, it is easy to see how property came to be fixed as the sole criterion of citizenship. That which was adopted as a test of taxability has been continued as a test of respectability. The acquisition of property is, generally speaking, the effect of intelligence; the inheritance of property secures the means and leisure for education. A certain degree of wealth is supposed to make men responsible shareholders in the great concern of government, as it certainly involves a larger proportion of taxes;¹ and to raise them above the temptation of bribery, whereas, unless united with high principle, it does but raise the price of their votes. These and other real or supposed qualities attached to property, combined with the influence of prescription and the self-interest of the "governing classes," have consecrated the possession of lands and houses in the most enlightened countries of Europe as the single undoubted claim to a voice in the Commonwealth, and have tended to degrade the ideal of the State to that of a Joint-Stock Company.

The third standard, that of capacity or intelligence, unlike the two preceding, has no historical position. Theoretically, it is the one eternal qualification for the exercise of any political function; actually, it has never been made the test whether of electors or representatives, and has usually been treated as a kind of appendage to property. In that noble scheme of politics, common in its great features to Aristotle and Plato, in which the State is considered as placed in a parental relation to the individual,² it is manifest that citizenship is equally the birth-right of all, and that no distinctions but those of capacity could be entertained.³ Whatever cautions against the principle of

¹ In France and Belgium the payment of a certain sum in direct taxes is requisite. Compare the constitution proposed by the army in 1649, with Cromwell's of 1654. Guizot, *Engl. Comm.*, I. 35, iii. 87. For the anomalies in the English electoral qualification, see Guizot, *Repr. Govt.*, lect. xv., and *Essays on Political and Social Science*, by W. R. Greg, ii. 545.

² *Politics*, I. i., &c.; *Republic*, bk. I., *passim*.

³ The contrary is implied by Aristotle, *Pol.* II. xi.; also in the grounds assigned

"arithmetical equality,"¹ or leaning towards the interests of the middle classes,² may be detected in those masterly treatises, have reference to the peculiarities of Greek democracies, in which birth or wealth not only gave no share of power, but also rendered their possessor an object of suspicion.³ The idea of the State as the mother of all implied that of equal rights among her children, and true aristocracy was in this view an aristocracy of "education."⁴ The opinion of Aristotle is the opinion of the whole ancient world; a share of public property was among the appurtenant rights, and not among the conditions, of citizenship, which was a personal, and therefore an inalienable, quality. That grand development of human society contained in the ten centuries bisected by the Christian era, and spread over a region so small geographically, yet so vast in its effect on the destinies of mankind, presents no trace of the modern doctrine by which the rights of citizenship are proportioned to the variable standard of private property.

But though capacity was and is assumed as the basis of all political systems, whether originating with the people or their rulers,⁵ no successful attempt has yet been made⁶ to limit power directly by this the sole quality which enables man to exercise it rightly; and such schemes are apt to be confounded with the St. Simonian theory of property.⁷ The only practical recognition of the principle is the universal disqualification of women, infants, and lunatics,—a provision borrowed from civil jurisprudence. The rude gatherings of North American chiefs,

for the exclusion of artisans, iii. 2, 3; in his lofty estimate of the ends of government, iii. 6: in his description of the true aristocracy and commonwealth, iii. 7, compared with iv. 5, 6, ib. 9, 10. See too Cic. Rep., 33-4, "*nec ulla deformior species est civitatis quam ea in qua opulentissimi optimi putantur.*"

¹ Politics, vi. 1.

² Pol., iv. 9 and 10.

³ Pol., vi. 4. Comp. Cic. Rep., ch. xxii.

⁴ Aristocracy is distinguished from oligarchy in the Rhetoric (i. 8), as "*πολιτεία δὲ ἢ οἱ κατὰ πᾶσιν διαρέμονται τὰς ἀρχάς.*" Comp. Pol. iv. 9, Ethics, viii. 10; Plato, Rep., bk. viii. p. 547, &c.; Cic. Rep., i. 34.

⁵ Guizot declares it to have been "the sole general principle" manifested in the distribution of electoral rights in England in the fourteenth century. Repres. Govt., xv. p. 394.

⁶ Bills to this effect were introduced by Lord Brougham in 1838-9.

⁷ Mill's Political Economy, bk. ii. ch. i. sect. 4.

the semi-political synods of Toledo, were more indisputable representatives of public reason than a House of Commons in which villeins and copyholders had no voice. Whence is it that the rights of capacity, so readily accorded to its successive counterfeits, force, rank, and wealth, have been denied to itself, and that their validity is held rather as an orthodox dogma, than as a living and active truth? Partly, it may be said, because the tokens of it are so hard to distinguish that they can only be inferred indirectly; but partly also because a fatally low conception of government has become inveterate among those who administer it.

There are two great political schools. The one looks only to the ends to be attained,—public safety and material prosperity, and is content to secure these, if indeed they be secured, by the readiest and sometimes the most pernicious means. It follows that the highest aim of the legislator is so to balance classes and interests, by the laws of political statics, as to create a state of equilibrium, or one at least in which no serious disturbance can arise.¹ The “people,” that is, immeasurably the larger part of the nation, is treated as a power co-ordinate with the privileged classes; workmen and employers, landlords and tenants, commerce and agriculture, are all regarded as mechanical forces, combining or conflicting, and only requiring occasional adjustment. Here there is no room for “the exercise of a deliberate judgment by the electors;”² all who have a pecuniary interest are capable voters, for all know their own interests, and from the concurrence of these the general well-being is compounded. The means is adequate to the end; discontent is kept at a safe level; the machine of government “works well.”

The other system considers the process of government, as a means of moral training, not less valuable than the immediate results to be produced by it. It denies the title of “good

¹ Such was the constitution given by Demonax to Cyrene, Herod. iv. 161; and that which obtains the unqualified praise of Thucydides, viii. 97.

² Sir J. Mackintosh's Works, iii. 284. He denies this deliberate judgment to be the thing desired. Southey holds the same view more strongly, and objects on that ground to the Reform Bill: *Essay on the state of Public Opinion and the Political Reformers*. Hobbes, on the contrary, dwells on the duty of educating the class of electors. *Leviathan*, ch. xxx.

government" to politics in which the noblest faculties of the citizens are left unemployed. All free opinions it accepts as contributions to the public treasury of wisdom. It places no bound to the aspirations of political society, except where the rights of individuals or of other societies would be infringed. It regards the individual members of a state as moral beings, engaged in a common search for their highest attainable condition, and the national assembly as the place in which the various results of the enquiry are compared. It is not, it cannot be, a matter of indifference whether the popular delegates be men of comprehensive intellect and enlightened charity, whether they give expression to the real political opinions of their constituents, or to the blind clamours of selfishness. "The dignity of governing depends on the dignity of the governed,"¹ is a sentiment worthy of its author; and of this dignity, whether it consist in character or in mental cultivation, mere possession of property is no fit criterion. Well would it be for the happiness of mankind, if more thought was bestowed on those upon whom the fabric of society ultimately rests, if the language of politics were borrowed from the moral rather than from the economical world, and if the interest of citizens in the common weal were measured less by their financial investments,—for who can stake more than his all?—and more by their appreciation of the grand and enduring benefits conferred by a wise government on an intelligent people.

Universal suffrage, the most ancient in its principle, as it is the most modern in its direct application, of all the systems, appeals for its authority to the inherent rights of man. These rights, as asserted by Rousseau, are intrinsically inalienable, and therefore incompatible with the existence of large communities.² But a tolerable substitute for individual will is found in representatives chosen by universal suffrage. Every man, it is said, has a right to partake in the legislation which is to bind his own conduct; political founded on social gradations are usurpations, gained by force and maintained by fraud. The incapacity of

¹ Bacon, *Adv. of Learning*, p. 97.

² Guizot, *Representative Govt.* part II. lect. x.; Montesq., *Spirit of the Laws*, xi. 6.

the many for government is a fiction invented by those who have an interest in excluding them from it. At least they have a right to choose their own representatives on a scale proportioned to their numbers ; and if this be granted, a speedy regeneration of society is confidently anticipated.

The arguments for and against a political theory must ultimately be grounded on historical precedent, or on its own abstract merits. It is singular that universal suffrage has so rarely been advocated on the former and more tenable of these grounds. For though the extension of civil equality to all classes and persons is comparatively new, the axiom that civil and political rights are coextensive is fortified by the strongest evidence of prescription. To a Pericles or a Brutus our doctrines of "civil and religious liberty" would have sounded ultra-democratical ; but the practical working of our government would assuredly have seemed to verge on oligarchy.

Ancient history furnishes innumerable instances of the tyranny of one despot over millions of subjects, of race over race, of particular families over their fellow-citizens, above all of freemen over slaves ; and almost everywhere the numerical majority was treated as passive material, fit only to be ruled. A distinction of orders in the state has been a perfectly familiar idea in all eras of the world, and has often been enforced by visible emblems of social inequality, such as restrictions on the right of wearing arms. So far as universal suffrage depends on the claim of the whole people to meddle in State affairs as their own affairs, the principle would have been quite inconsistent with centralization before the rise of representative governments. Accordingly, the absolute sovereignty of the people was first started as a political dogma in the English Revolution,¹ was revived in the French Revolution,² and has never been permanently developed on a large scale, except in America.

On the other hand, to recognise all individuals residing in a State as members of the commonalty, and to admit the right of the commons to legislate, and yet to disfranchise all but the wealthier and less democratic classes, is a system that dates from

¹ By Vane and a few other Republicans. Guizot, *Engl. Comm.*, ii. 248.

² That is, in Europe ; for the doctrine was already received in America.

the consolidation of the feudal governments in the latter part of the middle ages. The Greek oligarchies maintained themselves by never convening the popular assembly, or by influencing and intimidating its leaders, or by disregarding its decrees, sometimes too by private assassinations, never by limiting the qualified voters. The official aristocracies of Carthage¹ and Venice² were guarded by an elaborate executive, by the presence of an exclusive hereditary order in the Senate, and by secret councils. The Solonian and Servian constitutions, while they secured a preponderance to wealth, denied the franchise to none but absolute paupers.³ The disabilities of the "plebs" were justified, not by any alleged inferiority in wealth or education, but by the selfish superstition which so long denied them a place in the "Populus Romanus;" and after the "comitia tributa" superseded the Servian centuries, the principle of universal suffrage may be considered established. Complete dependence, if not actual serfdom, was the lot of the numerical majority in the great Teutonic nations; yet the suffrage was theoretically universal.⁴ The same pretence of political equality was retained in the councils of "peers" in feudalism, that disorderly system, which was not only inconsistent with democracy, but which by making barons and prelates respectively mock representatives of their vassals and clergy, retarded the growth of the popular element by more than five centuries. It was the acceleration of this growth, the increase of intercourse, the rapid influx and development of new classes and occupations,⁵ the subdivision of landed property, the rise of commercial interests, and the advance of centralization, that led to the adoption of an electoral qualification as a

¹ Arist., Politics, ii. 11.

² In Venice, after 1300, the Great Council was entirely composed of an hereditary nobility. Hall., *Mid. Ages*, I. ch. iii. part ii.; *Spirit of the Laws*, xi. 6. And in the earlier Lombard Republics the class eligible to public offices was small, though the electing class was unlimited. Hall., *Mid. Ages*, I. iii. i. p. 261.

³ Compare Grote, iii. 154, sqq., with Arnold, *Hist.*, I. v. 76.

⁴ The "general consent," and "consent of all," are common expressions in the laws of the early Franks and Lombards. Comp. Guizot, *Repres. Govt.*, part II. lect. xiv.; *Mid. Ages*, I. ii. part ii.; Guizot, *Civ. in France*, lect. viii. Hallam, (*Mid. Ages*, i. p. 161.) considers the "scabini" summoned by Louis le Debonnaire the first instance of representation. But Guizot treats them as royal officers: *Civ. in France*, lect. viii.

⁵ For the "Ciompi" in Italy, see *Mid. Ages*, I. iii. part ii. p. 296.

conservative expedient. Government soon became a complex science, the affair of a minority of the nation, and the actual business of a very few; and thus was commenced that principle of discord which has superseded all others,—the lasting alienation of the people from their rulers.

The real issue, however, between the advocates and opponents of universal suffrage is on the question of right rather than of fact, and the appeal of either party is to the future, and not to the past. No satisfactory solution can be expected from a mere inspection of results; for no two systems can ever be tried together with perfect fairness. Meanwhile, many of the evils apprehended from it are doubtless imaginary, and many preventible.¹ A closer acquaintance with the realities of government would dissipate many vulgar errors: precautions hereafter to be mentioned would effectually preclude hasty decisions; and perhaps neither the class of representatives nor the tone of their measures would, in England at least, be materially affected by the change. The evil would be in the disorder and ill-feeling certain to attend it. Where complete publicity and power of combination among the working orders subsists, the want of representation, even if it be an injustice, is not a serious grievance. Most representative systems, with certain modifications short of universal suffrage, may effect all that can be expected of representation without a vast increase of wisdom and virtue. The real active evils that eat into the heart of society, and make the lives of so many a misery to themselves and a burden to the State, are neither produced nor to be removed by laws affecting the suffrage; and when once the good of all is avowed and embraced as the object of government,² a widening basis of representation is chiefly valuable, not in itself but as a proof that this principle is not altogether dormant.

It is, in truth, the sense of wrong and incapacity too often

¹ For instance, large constituencies would diminish bribery. Brougham, *Pol. Phil.*, III. x. p. 82.

² Compare Plato, *Republic*, i. pp. 346-7, and viii. p. 549, with *Ethics*, v. 6, viii. 9 and 10: "ὁ μὲν γὰρ τύραννος τὸ ἑαυτοῦ συμφέρον σκοπεῖ, ὁ δὲ βασιλεὺς τὸ τῶν ἀρχόντων." Even Hobbes defines the true case of the "sovereign representative," whether a monarch or an assembly, to be "the safety of the people," in the largest sense. *Leviathan*, ch. xxx.

inspired by hereditary and class-legislation, rather than a conviction of the intellect, that has given birth to the maxim, "No man can be ruled without his own consent;" a sentiment only to be defended by false analogies, drawn partly from the law of individual liberty, partly from the case of voluntary contracts between individuals.

Individual liberty, the right of all men, is negative rather than positive, and contains more securities than privileges. The most important parts of it, the right of self-defence, and that which entitles a man to the fruit of his own labour, are but prohibitions, founded in nature, of the violence and rapacity of his fellows. Others, such as the right of bequest, though originally granted by enactment, and not by nature, have been sanctioned by an all but unanimous practice of civilized peoples. Out of these two sources is compounded the civil liberty of individuals, that which constitutes them freemen,—a privilege once so limited. To which of these can that political liberty which involves a share in government be traced? It is not among the original rights of humanity, for every man on entering the world finds himself in the presence of an established order of things, the work of former ages, and, like the other conditions of his existence, prior to his individual will. If the benefits guaranteed by the Government seem to him too dearly purchased by the taxes, it is free to him to leave the country of his birth, or in concert with others to agitate for a change in the constitution. But in no case can he claim a vote as his due, or act as though the past had no authority over the present, and the world were to be reconstituted in each generation. And if a share of political power does not belong to a man, as such, neither does it belong to him, except in one or two countries, in the same sense with those civil rights which have been consecrated by long usage.¹ The franchise in short is a privilege, and not a right, and it is far easier to invalidate the claims asserted by those who now exercise it provisionally, than to substantiate those of the classes which have it not.

¹ Where political and civil rights are united, as at Athens, in certain of the mediæval Republics, in the six democratic Cantons of Switzerland, and in the United States, it is in consequence of positive enactment.

The analogy of contracts has been repeatedly refuted. Under any assignable circumstances, and even in the instance of newly-settled countries, the contract must confessedly be imaginary, and yet the peculiar force of contracts depends on their being express. And while this analogy is equally arbitrary with those derived from family relations, such as are implied in the phrases "paternal government" and "universal fraternity," it is far beneath them in the dignity of the sentiments which it suggests.

The institution of government is in many respects entirely unique. It cannot be regulated by rules drawn from other subjects, nor, from the paucity of the registered experiments, has it yet acquired a complete science of its own. Any theory rigorously proportioned to the state of existing facts, is so far unsound; the facts are changing while the theory is being constructed; and almost all errors arise from the attempt to group in a single view phases which can only occur successively. The life of states is a perilous growth, the regularity of which is equally disturbed by sudden checks and violent acceleration, and all schemes for producing a fixed type of perfection are sure to err on the one side or the other.

Two conclusions, however, applicable to the question of representation, may be considered established,—the one relating to the rights of the people, the other to the duties of the government. Whatever rights have been acquired by the commons are the property of their descendants. The commonalty is an undying corporation; and, though the fact of having been born does not confer political rights, the fact of belonging to this corporation may confer them, for the same reason that, as we have seen, the acts of a former generation may abridge individual liberty.¹ Again, if the government be faithful to its trust, there will be a progressive extension of the franchise.² It is an anomalous necessity which makes the present holders of power the arbiters of the claim of others to share it; and in the discharge of this delicate duty all foregone conclusions are to be

¹ For the distinction between universal equality and the sovereignty of the people, see Cic. Rep. 31, and Spirit of the Laws, I. xi. 5.

² De Tocqueville, Dem. in America, I. iv.

eschewed, especially if they can be contradicted by the experience of other countries. It is the possession of an independent, and not of an orthodox, opinion which constitutes a capable voter, and no consideration can justify the disfranchisement of a class, which would be intolerable if applied to an individual.¹ If increased representation would be dangerous to existing laws, it would be well to enquire whether those laws are founded in reason. For the spread of publicity, the liberty of the press, the right of petitioning, are so many acknowledgments that the humblest citizen should be virtually, if not actually, represented.² The number of those persons disqualified by ignorance and recklessness for actual representation it is the statesman's duty daily to diminish, and meanwhile to make the avenues to the franchise absolutely free and open. Social inequalities necessitate political inequalities, and in a perfectly happy commonwealth social inequalities would rapidly wane. It is the fond anticipation of this ideal state that inspires the advocates of universal suffrage. They propose as a preliminary what is properly a result of social perfection. Having persuaded themselves by the logic of optimism that what ought to be will surely be, they proceed to act as if it were already accomplished.

On one of these four bases,—the discretion of the existing rulers, the qualification of property, the qualification of capacity, or universal suffrage,—stand the great systems of popular representation. Where the electoral qualifications are fixed, those of the representatives are of little consequence. That they should be wise and experienced counsellors, men of leisure, of independent means, removed from the temptation of bribery and the more insidious motives of personal aggrandisement, is for the benefit of all parties, and of their constituents above all others. The ordinary restrictions of age,³ rank,⁴ or

¹ Spirit of the Laws, l. c.

² See Burke's Letter to Sir Hercules Langrishe.

³ As for the "ancients" and "corps legislatif," in the French constitutions of 1795 and 1799. After the Restoration, forty years was the prescribed age for the Chamber of Deputies, (Brougham, III. x. 73). In the United States, twenty-five is the age for the House of Representatives, thirty for the Senate (Tremenheere, Constit. of the United States). In the Florentine constitution of 1323, magistrates were required to be thirty years of age.

⁴ In ancient Rome and in Venice noble blood was a qualification for office. In

fortune,¹ are intended as securities for character. They are objectionable, because futile, and the source of illegal evasion; while, on the other hand, the payment of representatives is a suicidal attempt to disarm the "natural aristocracy."² However confined the choice of public servants, there will never be wanting a Valerius or a Gloucester to assert popular rights, where such exist. Even the malignant jealousy of Italian democracies entrusted the office of "Podesta" to foreign nobles, though their own were disfranchised.³ The august titles of "witenagemote," "prud-hommes," and "buonumini," have their meaning even in this age of enlightenment, though they need not be supported by legislative enactments. The various kinds of these limitations, since they are not characteristic of distinct political systems, do not merit a more particular discussion.

II. Upon the view adopted of the grounds and limits of electoral qualifications, will depend the principal questions respecting the mode of election. These are four,—the distribution of constituencies, the direct or indirect nomination of the representatives by the qualified voters, the exclusive rights of majorities, and the publicity or secrecy of election. On each of these points, that system ought manifestly to be preferred which makes the best electors and the best representatives; for this is the true interest of the nation.

The object being so to distribute constituencies, that the representative body may be a miniature copy of the whole class of electors, an overwhelming number of precedents may be shewn for the method of local partition. The convenience of grouping a district round its local centre, the natural community of interest between fellow-townsmen or neighbours, and the facility thus afforded for counting, registering, and classifying voters, cannot fail to make territorial division a necessary

Florence, after 1282, it was all but a disqualification.—Hallam, *Middle Ages*, I. iii. part ii.

¹ In the Solonian constitution, archons, though elected by all, were of the class of πεντακοσιμέδωνοι (Grote, iii. p. 160, sqq.). A similar qualification was prescribed for the Senate and Suffetes at Carthage. *Comp. Politics*, ii. 6, and iii. 7. In England, £600 in landed property is required for county members, £300 for burgesses.

² Compare Warburton's "Hochelaga," p. 226, sqq.

³ *Middle Ages*, i. p. 260.

part of any scheme of representation. Had the Roman empire been thus systematically divided, instead of being one vast constituency, provincial interests would not have been so miserably neglected. When representative governments were formed in Spain, England, France, and Germany, an opposite error was made: a very imperfect system of local partition was the only system adopted; no separate interests were recognised but those of separate localities, that is, of separate towns, each with an equal number of votes, and of town and country. The country was represented in England by knights of the shire, and in Sweden by "peasant-deputies,"¹ in other constitutions by the inferior nobility in person; while in Italy, this wholesome antagonism was neutralized by the residence of the great proprietors within the city walls.² The idea of representing distinct "classes" or "interests" in the community, though not unknown in municipal government,³ was never applied to imperial legislation, except in the case of the clergy, who had already in their ecclesiastical organization anticipated the development of civil representation.⁴ The French "electoral districts," the American "townships," and the English "counties" and "parliamentary boroughs," are geographical quantities, supposed originally to stand for units of equal value. But, since the unity of nationalities has prevailed over the dislocating principle which tended to make government an incoherent aggregate of smaller systems, some modification was necessary. Such was the partition of London into several constituencies, the disfranchisement of very small towns, the preservation of a nice equipoise between a highly-concentrated and a dispersed

¹ These peasant-deputies, like our knights of the shire, (according to some authorities,) represented only the tenants in capite. Brougham, I. p. 640. In Norway, the counties, like the towns, send members in proportion to their population, and return two-thirds of the whole legislative body. Laing's Norway, ch. iii.

² Middle Ages, I. iii. part i. p. 231.

³ Compare the several "arts" in the Italian Republics. Mid. Ages, i. 283, sqq. Palgrave discovers some traces of a similar institution in the Roman "municipia." Engl. Comm., i. ch. x.

⁴ The clerical proctors regularly attended Parliament under the late Plantagenets. Mid. Ages, II. viii. part ii. p. 262-8. They also formed part of the Scandinavian Diet. For ecclesiastical representation, comp. Mid. Ages, II. viii. part iii. p. 146; Guizot, Civ. in France, lect. iii; and Creasy, p. 188.

population,¹ precautions which, though equally foreign to a system of pure numerical equality, and to one of vested rights, are essential to the equilibrium of interests in a constitution variously compounded. The greatest problem in government is to understand and regulate the correspondence between political and social development; and this depends more on the proportionate influence of various classes, than on the mere extension of the suffrage. The reform of Clisthenes, as well as our own Reform-Bill, had this end in view; and even universal suffrage would have a far less powerful effect, if constituencies were skilfully adjusted, than if each contained an equal number of voters. The definition of all such electoral boundaries must be determined by the conditions necessary on the one hand to produce capable representatives, and on the other to insure the possibility of personal knowledge on the part of the electors.² Nevertheless, the inadequacy of local residence, or, as it is too often construed, the possession of lands or houses, to form the basis of representation in a complicated society, has suggested other principles of distribution,³ such as the enfranchisement of learned bodies, of certain professions or trades, of legally accredited societies, of persons placed in positions of trust, or who have filled certain offices at home or in the colonies. All such expedients, besides their bearing on the electoral qualification, create constituencies not geographically limited, though in their nature subsidiary to the latter class. Until society can safely be left to work out its own perfection without organization, a natural is preferable to an artificial basis of organization. No principle yet invented seems calculated permanently to supersede territorial distribution, as a means of eliciting the opinion of every class, while it counteracts the tendency of the community to separate itself into "horizontal layers,"⁴ so fatal to its power of harmonious action.

¹ In England, for instance, a borough of 4,000 or 5,000 inhabitants may return as many members as Birmingham. But then, while not one per cent. of the former class of towns is enfranchised, every one of the latter kind is duly represented.

² Guizot, *Repres. Govt.*, part II. lect. xiv.

³ In France and Belgium the franchise can be exercised in any part of the country, being a personal right.—Greg's *Essays*, ii. 545.

⁴ *Westm. Review*, July 1852, quoted by Greg, ii. 551. In Sweden, where there

The idea of indirect election, introduced at Rome in the practice of voting by tribes, was perhaps first systematized in some of the Italian Republics. The petty municipal spirit suggested the choice of public officers through one or more intermediate bodies of electors, sometimes select, at other times taken by lot,¹ and often debarred by incredible complications from a free exercise of judgment. Few European countries, besides our own, can be said to have retained the representative principle in its native purity. Almost all the manifold variations from the simplest method proceeded from one of two sources. Either, like the plan of "combined choice," and the Venetian system, they are imitations of the "co-optation" of the inferior by the superior in the Roman municipalities,² or they were an attempt to give the people a semblance of power without the reality, a compromise between an imaginary danger and an imaginary injustice.

One system, however, that of double election, is open to no apparent exception. It checks representation without cramping it, and seems to be one of those unique inventions which can only be attacked by arguments mutually destructive. If it be true that "it creates a means of tyranny for the benefit of the majority,"³ it cannot be true that "its tendency is to place the power in the hands of a minority of the community."⁴ The laws which really regulate the influence of a majority are quite different in their nature, and have yet to be explained; meanwhile, the unimpeachable recommendation of double election is that it extends the suffrage with safety to those who would otherwise be excluded. If the class of competent representa-

are four orders, the professional class and small landowners (not being "peasants" are disfranchised.

¹ Compare the Florentine and Venetian elections, *Mid. Ages*, I. iii. part ii. pp. 284, 321; also Guizot's account of those at Sommières, in *Languedoc*, *Civ. in France*, III. lect. xviii.

² Guizot, *Civ. in France*, lect. ii. The members of the Castilian Cortes, after the reign of Alphonso XI., were nominated by "bailiffs or regidores, whose number seldom exceeded thirty-four, and whose succession was kept up by close election among themselves." *Mid. Ages*, I. iv. p. 388: comp. the Venetian system, *ib.* I. chap. iii. part ii. p. 318.

³ Guizot, *Repres. Gov.*, part III. ect. xvi.

⁴ Brougham, *Pol. Phil.*, iii. 9.

tives be smaller than that of competent electors, so, too, many may be fit to nominate an elector who might be unfit to vote for a representative. A more honest objection is, that it brings the electoral system within one step of universal suffrage,¹ and it may be added, that it does so with the happiest results. In France, in Norway, and in America, nations the most diverse in their history and character, it has been crowned with signal success; nor could a "President's election" be conducted otherwise without fear of a revolution. Thus framed, the Norwegian Storting, the pledge of a solemn compact between the king and people, is favourably contrasted with that of the feudal monarchy of Sweden;² and the Washington Senate, elected on nearly the same principle,³ enjoys a reputation far superior to the more democratic "House of Representatives."⁴ The French "Primary" and "Electoral Assemblies," planned by Sieyès, were continued under the Consulate, the Empire, and the restored Monarchy.⁵ If the excellence of institutions be estimated by their power of reconciling liberty with order by a simple machinery, few can be compared to "double election." "Men who are chosen in this manner accurately represent the majority of the nation which governs them; but they represent the elevated thoughts which are current in the community, the generous propensities which prompt its nobler actions, rather than the petty passions which disturb or the vices which disgrace it."⁶

The rights of majorities, though inconsistent with the extreme pretensions of individual free-will, are founded on reason, and on a remarkable uniformity of prescription. Whether the collection of votes be a means of ascertaining the truth, or of deciding between conflicting interests, or the exercise of a personal right,

¹ Greg., ii. p. 553.

² Laing's Norway, ch. iii.

³ De Tocqueville, I. viii. 192. The Senate is chosen by the legislatures of the several States; the President of the United States and the Norwegian Storting by representative bodies elected for the purpose.

⁴ De Tocqueville, II. v. 55. Comp. Tremenhoe, Const. of the United States.

⁵ Brougham, iii. 9; Greg. ii. 551.

⁶ De Tocqueville, II. v. 56. The same author says, (ib.), "I have no scruple in confessing that I look upon this peculiar system of election as the only means of bringing the exercise of political power to the level of all classes of the people."

the claim of the majority to prevail is equally clear. Their judgment is more likely to be correct, their interests ought to be preferred, and the aggregate of individual rights preponderates on their side. If the majority be wrong, who can legitimately overrule their decision? All systems of voting must rest on the just assumption that, in the exercise of individual judgment, truth will on the whole prevail. It will so prevail if the experiment be tried on a scale sufficiently large, if constituencies be equitably distributed, and if the educated minority, who when artificially exalted are an oligarchy, be allowed their natural influence. For superior intelligence, though it confers no right to govern, does confer a right, generally respected, to be chosen.¹

But it is only the want of a better criterion that justifies an appeal to the balance of numbers. The majority, it is presumed, will be right in three cases out of five, but they will be wrong in the other two; and if reconsideration and the statement of opposite views be hindered, they may possibly be wrong in all. Their decision must be accepted by the nation as final on each point, but it cannot bind individual conscience. The sovereignty of the majority tends, like all unlimited power, to make tyrants of its possessors. It should therefore be made provisional; and all systems are vicious in which the opinions of the minority have no adequate expression. There are two chief means of effecting this, without infringing on the supremacy of the people: the one, by so minutely dividing electoral districts, as to make it certain that principles held by any considerable class will obtain a majority in some; the other by giving every facility to the views of the minority, to influence the representative body, and become the views of the majority. Of both these salutary precautions, England, by the admirable diversity of her constituencies, and her ample safeguards against hasty resolutions, furnishes the best example; and the Greek constitutions, both municipal and federal, the worst. The practice of voting by states, as in the Achæan League, by "tribes," as at Rome, and by "nations," as in certain Scotch elections, without the interposition of representatives chosen from smaller sections,

¹ Plato, *Rep.*, *passim*; especially bk. iv. p. 431-2.

silences the voice of the minority of nations or tribes, which may chance to be that of the majority of voters. On the other hand, the too rapid operation of popular will, which so nearly led to the wholesale slaughter of the Mitylenæans, exalted the daily passions of the Greeks, as it has those of the Americans, in spite of the President and Senate, to a tyranny over their deliberate convictions.

The interests, therefore, of truth and justice are intimately connected with the rights of minorities. That the minority, whatever its composition, should gain a hearing without gaining a preponderance, is the proper object of all the schemes proposed or executed for giving each elector fewer votes than there are members to be returned, for enabling more than one vote to be recorded for a single member, or for instituting a national, as well as a local, list of representatives.¹ The merits of all such expedients depend on the principles, already stated, of electoral rights, and on the relations, shortly to be discussed, of representatives to their constituents.

The question of open voting introduces a very deep problem. Is the exercise of the franchise a matter of individual conscience, or is it to be trusted to the random influence of bribery, intimidation, and external pressure, in the hope that their joint result will be good? Is the violence of the mob to be weighed against the coercion of the landlord; or rather, are the votes of all whose position is not absolutely independent to be merely nominal,—a fictitious property, whereof the beneficiary use results to another? Morality would teach us, if politics did not, that this cannot be: a vote is a moral act, whose essence is destroyed by constraint; and in this, its moral aspect, will be found the best argument against the ballot. A conscientious vote being the desideratum, how will this be affected by concealment? Do monstrous evils result from open voting? can they be removed by ballot? and does the ballot involve equal evils of its own? Undoubtedly serious abuses do and must prevail till wealth and education are confined to their sphere, as moral, and not mechanical, instruments on the opinions of others. Hence

¹ Comp. Greg., ii. pp. 506 and 580, with the *Edinburgh Review* for July, 1854, p. 226, sqq.

the adoption of the ballot, in ancient and modern times, as an antidote to the endless party-feuds of city governments, and its prominent place in schemes for a large extension of the suffrage. But the remedy, though a specific, is imperfect; bribery might still be practised by contract on a large scale, and the coercion of landlords, employers, and customers could hardly be avoided but by gross deceit. For, whatever answer be given to the former two, the last question must be solved in the affirmative. The ballot weakens that grandest of political virtues, moral courage. It removes from a political trust the best of worldly guarantees,—public opinion. It diverts the salutary watchfulness of parties, from open scrutiny to covert suspicion. It shields the unprincipled voter from just indignation, it cheats magnanimity of its due reward, and it places the noblest characters on the level of the weak and cowardly. There may be some cases in which custom has mitigated its effects, and others where circumstances have made it indispensable to the freedom of voting. But it is no system for great countries like France, England, or America;¹ for self-reliance and the sense of political duty should ever be on the rise in a growing community. Let it never be forgotten that all which the ballot adds to the perfection of the representative system is subtracted from the current standard of high principle, and that the necessity for it is ever a symptom or a cause of weakness in a political constitution.²

III. But however prudently the franchise be extended and distributed, and however just the mode of election, little is done if the relation of representatives to their constituents be ill-defined or dishonourable. The difficulty of striking a true balance between the freedom of the proxy and the control reserved by the principal, is not peculiar to political representation. Every man who acts on behalf of another—champion, advocate, or representative—needs the utmost freedom of action consistent with the original purpose of his engagement. So impossible is it for the people to be worthily represented by a mere tool or mouth-piece, that the most absolute powers are wielded by public ser-

¹ In America, some states have adopted it, others have not.

² Comp. Brougham, III. ix.; Guizot, *Repres. Govt.*, part II. lect. xvi.; Sydney Smith's *Essay on the Ballot*.

vants in those countries where their period of office has been briefest,—in Greece, Rome, the Republics of modern Italy, and the United States.¹ But as the same question is involved in those expedients which, like triennial parliaments, and the payment of members,² are calculated to render the account of representatives to their constituents stricter or more frequent, the controversy becomes of some moment.

Political theories, as professed by nations, may be well tested by the character of their supporters. The three countries of modern Europe in which "delegation" has been most warmly adopted, are Poland, Hungary, and Holland: the two former (while they were independent) feudal monarchies of the very worst kind, practically controlled by a vast patrician order, and destitute of all the best characteristics of that irregular polity; the latter a federal republic, glorious in its origin, but incurably infected by the meanness of democratic or commercial oligarchy.³ The juxtaposition of these modern instances of extreme popular interference suggests a significant lesson, to which every page of Italian history supplies a commentary. It is precisely in those countries in which private interests—local, personal, or partizan—predominate over the grand general concern for the public good, that is, in which the selfish and mechanical idea of government as the composition of struggling forces swallows up the nobler conception of moral co-operation,—it is here that faith is weakest, and that the impatient populace clutches momentarily after the power which for its own sake it has placed in abler hands.

It is otherwise where men have learnt that the best interests of each are bound up in the welfare of all. The varieties of party-opinion, the more they are examined, seem to depend on differences of moral penetration. The contest is between those to whom near objects are great ones, and those whose vision commands the distance in its true proportions. The national assembly

¹ De Tocqueville, II. v.

² See Warburton's "*Hochelaga*," p. 226. In the early English Parliaments, when the public service was a burden, and the wealth of the country was in the hands of the barons, this payment was a necessity.

³ Both in Holland and Poland the "*liberum veto*" was established; an ordinance according to which the rejection of one proposed law rendered invalid the whole legislation of the session. Comp. Brongham, II. viii., and III. xxxiv.

ought to embody the most far-sighted intellects of the country. The writ for a new election is a summons to each electoral district to send its wisest to the true Witenagemote, or national assembly of wise men. They elect indeed, but, like the German warriors, they elect a leader, not a dependant,—one who is to guide rather than to follow them. He goes, not to do as they would do, could they be present, but to do what they cannot,—to deliberate, to discuss, to act for the occasion, and with regard to national duties and interests. Public opinion and external pressure are to him facts,—the most important of all political facts,—because they tell of real needs and real indignation, and are a message from the great unrepresented class as well as from his own constituents; but they are not the supreme law of his conduct, for, if he be wise, he has given no pledges but the history of his previous life. This is representation, the true development of the system “invented in the woods,”¹ whose principles apply equally to monarchs, aristocracies, and all other individuals or classes who hold power in trust. All possess it on the condition implied, or express that they will use it for the public benefit. If all were endowed with the virtue of Plato’s Guardians, no positive securities would be required, and representative institutions would be succeeded, not as in France, but peaceably, by representative men. But in the present state of human nature implicit confidence is impossible; there must be some guarantee. The form which it takes in the case of kings and privileged classes is vague enough,—the fear of actual physical resistance, of a secession of the “plebs,” of a Jacquerie insurrection, of civil war, of a French Revolution, in case too great a deviation be made from the line of justice and rectitude. From the direct nominees of the people a more definite account is required; and here the theory of our own constitution is singularly wise and just. The man chosen by a majority of the Manchester constituency is, in Burke’s language,² a member, not of Manchester,

¹ “This beautiful system was invented first in the woods.”—*Spirit of the Laws*, I. xi. 6.

² Speech at Bristol, 1774. Comp. his speech of 1780 (at Bristol). In his speech on the Economical Reform he says,—“I did not follow the sense of the people. The truth is, I met it on the way, while I was pursuing their interests according to my own ideas.”

but of the English Parliament; bound, that is, morally, to maintain the principles to which he owes his election, but impelled even by self-interest to patronise beneficial measures ;¹ deaf to mere clamour, but amenable always to open criticism, and at certain intervals never exceeding seven years to deliberate censure or rejection.² Few countries can show so generous a trust. In Norway three years, in America two, in most municipal republics one, have been the periods allotted to the duration of representative functions ; and everywhere the relations between the people and their deputies must be affected by the origin and modifications of electoral rights, and the progress of centralization. But, as with the ballot, so here, the important question is one of tendencies. That the people, as well as princes, are best served by faithful and independent advisers, while they are debased by the flattery of courtiers, is a truth, which being admitted, these relations will not long remain unsettled.

And now the structure is complete. The primary units of the political system, whether simple freemen, or landowners, or householders, or royal vassals, or educated men, or tax-payers, however differentiated from the mighty mass of humanity, and however classified, have combined by one of many modes to choose their best or most influential men, and have sent them, provided with powers more or less full, to act in behalf of the whole nation. It might be expected that a body so constituted would act with irresistible force ; that it would concentrate in itself all powers whatever, both those which are usually reserved to the crown and nobles, and those which are left to local or private management ; that the nation with all its heterogenous elements would become one, not only as a body cohering to a common centre, but as an individual obeying a common will. The immense advances made by the People's House during certain short periods, such as the fourteenth century in England and the reigns of John and Charles VI. in France,³ seemed to

¹ See Paley, *Moral and Political Philosophy*, ii. 199.

² In a less advanced state of society penalties were necessary. Solon is praised by Aristotle for the institution of the *euboria*. Pol. ii. 12, and iii. 6.

³ Middle Ages, I. ch. ii. part ii. p. 162, sqq.

promise such a consummation, and during the civil war of the seventeenth century it was temporarily realized. But this state of things never lasts long; even in the democracies of America and Athens a division of power is secured, and the fallibility of popular assemblies practically admitted. For such is human nature, that the very barriers which it raises against despotism are liable to be fortified by their victorious defenders against liberty herself. Mixed government is odious only to those who prefer pure evil to qualified good, and unless there be some such mixture, the best materials, like native gold, will not stand rub and wear. It is therefore in favour of representative government, and a good omen of its durability, that it has not led to an indiscriminate centralization, nor exerted its strength to the full. And though the constitutional position of the "Lower House" in various countries is a subject extending through the whole of their respective histories, it is of consequence to know what part of sovereignty is generally vested in other hands.

Those multifarious functions summed up under the term "executive" are such as demand a certain unity of design and control, not to be found in a numerous body. The command of the army has always belonged to the king under a monarchy, even such as the Spartan. It was equally the attribute of the Roman emperors, of the feudal sovereigns, and of modern constitutional princes; and the crisis must be stern indeed when troops are levied in the name of the Parliament. The same need of promptitude, secrecy, and undivided authority has placed foreign affairs, once the special subject of popular deliberation, under the monarch's care. The Queen, the Czar, the Venetian Doge, and the American President, equally proclaim war or peace, and receive foreign embassies.¹ Even for the immediate direction of home affairs it is essential that the supreme authority be concentrated, whether a "signiory," King, Land-Amman,² Stadtholder, or Consul, be the title preferred. Liberty consists not in the actual exercise of power, but in the certainty that it will be well exercised. To the English mind this is briefly expressed in the impossibility of government being con-

¹ Wheaton's International Law, part III. ch. i. 4, and ii. 5.

² The chief magistrate of the Directing Canton in Switzerland.

ducted without a majority in the House of Commons,—a formula in which a control over the royal household and expenditure, the power of impeachment, and an absolute veto, is implicitly comprised.¹ So complete an oversight of administration in all its departments, is probably possessed by no other popular body which has been gradually formed; and even in the United States the President can govern without a majority of Congress. But the all-important right is that of voting and refusing taxes, the nucleus, as it was the germ, of modern representation; and if this really existed in Prussia, Denmark, or Spain, the constitutions of those countries would not differ greatly from our own. When to this is added the immense moral weight inseparable from a body of which almost the whole nation is the virtual client, it is easy to understand how the nomination of this part of the Legislature has become identified with the sovereignty of the people.

But there is another function which can never be exercised advantageously by a representative assembly. The throne of justice, the highest and most venerable of human dignities, should be placed, like a lighthouse, on an immovable basis, not to be rocked by the waves of faction, nor swayed by the veering blasts of intrigue or caprice. The tumultuary "interference of the people in judgments"² marks an early stage of civilization. In every matured constitution judicial power belongs theoretically to the highest authority in the State, but is vested in independent officers, reciprocally controlled by courts of appeal, and ultimately responsible to the supreme executive; it has never been permanently attached to the moveable or representative element, even where the latter has unwisely claimed the right of trying causes. The confusion of the *ἡλιαία* with the *ἐκκλησία* was soon remedied, by the formation of a separate body, divided into panels under an archon as president. The judgments of the Comitia yielded to those of the Prætor and "judices selecti." The real tribunal of the Roman municipalities under the Empire was not that of the decurions, but the court of the

¹ All these rights were asserted by the House of Commons under the last Plantagenets, and finally established under the Lancastrian princes. Mid. Ages, II. ch. viii. part iii.

² Guizot's Civil. in France, III. xi.

Ilviri i. d.; or, where these did not exist, of the provincial governor. The lawless adjudications of county-courts and "scabini," and of other popular meetings, of the Teutonic nations, succumbed before long to the jurisdiction of the Count Palatine, of "missi dominici," or of "royal judges."¹ A similar amalgamation of legislative and judicial proceedings in the feudal Great Councils, and the courts of individual barons, was equally short-lived,—the former being superseded by appellate tribunals, such as the Parliament of Paris (a semi-representative body), the four great English Law-Courts, and the Imperial Chamber: the latter by justices of assize, bailiffs, and seneschals, and sometimes (in Germany) by the king itinerating in person. The right of equal justice is prior, both naturally and historically, to that of representation, and is proved by universal experience to be safer in the hands of officers appointed solely on grounds of personal capacity by the Crown, as the supreme fountain of justice, and checked by the people themselves acting as jurors or assessors, than in those of their own representatives. Elective judges, unless elected for life, are rarely proof against party-spirit, and if America persist in diminishing the independence of her judicial bench, she will be neglecting the experience of Italian democracy, and sapping the roots of her own liberty.²

Administration and jurisdiction, therefore, are generally the province of the Crown or chief magistrate, to whom also a veto, more or less real, on legislative measures is always given.³ But in legislation itself, the decrees of the Third Estate are not always decisive. Few nations over which the mighty spirit of feudalism has passed, are without an hereditary nobility,⁴ the descendants of those who once monopolized legislation, and themselves important enough even politically to form a second chamber, while their social influence is often absolutely tyrannical. Again, in all ancient republics, and in all modern constitutions not framed on a feudal model, the great assembly of

¹ These existed in England even in Saxon times. Mid. Ages, ii. 74.

² See Tremeneere, Constitution of the United States.

³ Hallam gives instances in which statutes were set aside or mutilated by royal prerogative. Mid. Ages, II. ch. viii. part iii. p. 219, sqq.

⁴ Even in the old Dutch constitution there was a noble or equestrian order. Brougham, I. iii. xxxiv.

the people, or of their representatives, has been assisted by one more select, answering to the feudal House of Peers, but nominated directly or indirectly by the Commons.¹ The privileges of such hereditary or elective chambers have been, like their origins, far too various to be enumerated; but their relation to the Lower House is chiefly twofold, according as their decision is preparatory² or supplemental.³ In ancient free states, the final ratification was reserved to the people as the highest act of government; in modern times, the power of initiation, having been that appropriated by the Roman emperors, the popes, and the most absolute feudal monarchs, has in general been transferred with the other essentials of sovereignty to the popular representatives. By a similar principle, the Lords in England, and the Senate in the United States, try political offences, while the Commons can only impeach. Upon the preservation of harmony between the two Houses, and still more between the two classes whom, under one form or other, they respectively personate, the Many and the Few, depends the safety of representative government. "The secret of liberty," says Guizot,⁴ "is to provide equals for every power for which it cannot provide superiors;" and it has been the peculiar blessing of England, that while the House of Lords has been constantly recruited from below, the House of Commons has been constantly recruited from above, so that no violent collision of interests attends the difference of their constitution. The conspiracy of the king and aristocracy crushed the French States-general; hostility to the nobles urged the Danes to that act of madness by which their liberties were consigned to the keeping of an absolute king. The second chamber, be it a select committee or an independent board of revision, the organ of a landed aristocracy, or of an oligarchy of talent, holds the balance between liberty

¹ Such were the "ancients" in the French constitution of 1795, and the "Senate" in that of 1799, the "pregadi" at Venice, the "council of eight" at Genoa, &c.

² This was the practice in most Greek republics.—Heeren, *Ancient Greece*, p. 167.

³ Montesquieu confines the legitimate power of the nobility to a veto. *Spirit of the Laws*, I. xi. 6.

⁴ *Representative Govt.*, part II. lect. xviii.

⁵ A.D. 1661.

and order. Like the keystone of an arch, or like England in the European States system, it wields a power altogether disproportioned to its own visible magnitude, a power without which even democracy would be short-lived, and constitutional monarchy a vain chimera.¹

We cannot follow further the theory of representation without entering upon the history of mixed government, if not of civilization. Even of representative institutions themselves we have but sketched the contour, developing the leading features, but debarred from all graphic description of their manifold expression. From all those collateral topics, some of engrossing interest which invited us at every step, we have reluctantly turned away, not excepting the debateable frontier of politics and political economy, the social conditions antecedent to government, and its various effects, revolutionary or retrograde, on the social movement. We have treated the historical outlines of the representative organization as the geographer treats a vast mountain system: we have studied the progressive configuration of the central ranges, without following them into their outlying branches; nor have we descended from the high ground, albeit bleak and barren, to trace the streams which flow from its depths to fertilize the surrounding country. All the chief formations we have noticed may be grouped round three primary types,—the municipal, the feudal, and the English. The first is that of the Greek and Italian republics, of Rome and her provincial cities, of the united provinces of the Swiss Cantons, of the United States, and of most federal constitutions. It is characterized generally by the application of the principle of *isovoxia* to political rights, by the preference of local to general interests in the distribution of constituencies, by indirect election of councillors and public officers, by the formidable predominance of the majority, by secret voting, by the strict responsibility of representatives to their constituents, and by the enormous power of the popular body. The second is that of Sweden, and of the old constitutions of Spain, Poland, Hungary, Denmark, Sicily, and the smaller German States. Here the franchise belongs

¹ See Hume, Essay vi.; Guizot, Repr. Govt., part I. lect. viii., part II. lect. xviii.

exclusively to land and corporations, the latter being, in the Hungarian system, a mere cypher. It further differs from the first in the general adoption of direct election, in the better representation of the minority, in the greater publicity of election, and in the comparatively subordinate position of the commons. It is not free however from the evils of "delegation." The third is fully exemplified in England only, but the more recent continental constitutions, those of Norway, Bavaria, Belgium, Piedmont, and Sicily, from 1812 to 1815, are imitations more or less exact of this august prototype. A more variable standard of electoral rights, a greater diversity of constituencies, the method of direct election, a tolerably effective recognition of the minority, the disuse of the ballot, great independence of the representatives, and the qualified sovereignty of the people's house, distinguish this development, as it exists in England. In the irregularity of the fabric is its strength; the forms have not been placed round the substance, but have grown there spontaneously and slowly, a model of stability to younger societies. Whereas France, the nurse of civilization, has thrice abused the proffered blessings of representation, under the Carolingian dynasty, in the fourteenth century, and since the revolutionary epoch. It may be that the Sibylline volumes are finally withdrawn. The suicidal selfishness of the privileged cities of Castile¹ can alone parallel the guilt, whether of the people or their leaders, which has stamped that noble country as unworthy of representative government.

One question still remains,—the most interesting of all. What is to be the end of popular representation? Is it, like the law of gravitation, final and eternal, even if partial; or is it, like shallow hypotheses, adapted merely to our present knowledge of phenomena? If its foundation be real and living, why has it not made itself more universally felt?—why is Russia on a par politically with Persia of old, and Austria immeasurably

¹ In Castile, "what might be called a representation of the whole commonwealth," became at length the monopoly of seventeen or eighteen cities, to whose deputies the unrepresented cities were to transmit their instructions. These cities resisted a royal measure for the extension of the privilege. Comp. Prescott's Ferdinand and Isabella, part I. ch. i., and part II. ch. xxvi., with Middle Ages, I. v. p. 388.

behind Athens? Do then the separate associations of mankind revolve in perpetual cycles of growth and decay? Is there no unity in universal history, and no real progress of the species? And if not, may not political share the fate of ecclesiastical representation, and be succeeded by despotism and anarchy?

There is indeed cause for enquiry, but there is none for despondency. It is only by viewing history on a grand scale that we can overlook the petty eccentricities and disturbances of the minor orbits, and behold the whole majestic system travelling onwards to some glorious, though invisible, destination:—

“For we doubt not through the ages one increasing purpose runs,
And the thoughts of men are widened with the process of the suns.”

And political progress is on the whole political improvement, else were history indeed “a record of the failures in government.”¹ Many such there have been; for nations are developed under conditions the least conducive to symmetrical conformation; still, however, the false is gradually eliminated, while the true remains, and shall one day prevail. Representation will not pass away till its use has expired, and this can hardly be so long as men need to be governed, and yet cannot govern in person, or safely resign themselves to irresponsible hands. This is its essence, its spirit, its “form” in the Platonic sense, and between this and the framework whose structure we have analyzed, there is an intimate, if not indissoluble, relation. Such forms are not transitory; they yield only to radical convulsions or a change of identity. Nothing short of entire dissolution or entire rejuvenescence can expel representation from the countries in which it is rooted, or from the body-politic of Europe. Physical life is a perpetual tissue of decomposition and renovation, yet the old form ever clothes itself in new matter, and lasts till the matter is exhausted. And even should the form perish, the vital principle, the political rights of moral beings, is indestructible as society itself:—

“The form decays, the function never dies.”

Nor do existing facts augur ill for representative government.

¹ Friends in Council, ii. 57.

It is true that wealth and intelligence are outstripping institutions, and social are gaining on political ideas. Civil society is like the sliding glacier, of which the middle travels faster than the sides. Hence the fantastic contortions and crevasses which disfigure it. Yet there are not wanting new outlets and regulating forces to save it from utter disruption. To the great unrepresented class, and to those who despise representation, the entire publicity of political actions, supported by the freedom of the press, is a pledge of good faith which democratic absolutism dares not tender. So great is the power of public opinion created by these and like means, that some have imagined opinions, and not men, to be the proper subject of representation,¹ which, like all other modern authority, ultimately bows to them; according to the saying of Pascal:² "La force est la reine du monde, et non pas l'opinion; mais l'opinion est celle qui use de la force." And, above all, there is an earnest and increasing regard for right and truth, as such, little observed, because, like all great forces, moral and physical, it works noiselessly, but which tends beyond all else to compensate and to rectify the imperfection of political machinery, and to make the "rule of the baser"³ appear the last of evils.

* * * * *

The world-wide antagonism between man and authority, between the spirit of individuality and that of system, between Christians and the Church, still agitates the atmosphere of politics. Let us accept the verdict of the sixteenth century. Man, as an immortal being, is the great central object in the moral universe. Let us begin our reforms from below and from within, duly weighing the grandeur of political responsibility, as the guardianship of human souls. Let us value government chiefly as an instrument, and self-government as the noblest instrument, of moral elevation. Tyranny, in its manifold aspects, will then appear not only as the enemy of material prosperity, but as the cause of that deadly lethargy which paralyzes the inmost springs of virtue. Free institutions, of which the repre-

¹ Mackinnon on Popular Opinion, ch. iv. sect. 5.

² Pascal, *Pensées*, II. xvii. 110.

³ τὸ διὰ πονηροτέρου ἀρχεσθαι. Plato, *Rep.* i. p. 347.

sentative principle is the fairest specimen, will assume a value in proportion to their victory, not over economical, nor even social, but over moral, evils. And thus ennobled and consecrated, equitable codes of law, and well-ordered forms of government, may lose much of their coldness, and inspire some part of the romantic sentiment hitherto reserved for ruins and decay. The fond reverence which now clings like ivy to the hollow trunk of error may twine itself round the solid fabric of everlasting truth. The day shall come, perhaps not within the cycle of "Modern History," when all contradictions shall be reconciled, and the dark places of morals and politics simultaneously illumined. For it is not consistent with the purposes of Benevolence that faith shall be restored to its freshness, till the perfection of human society shall be worthy of its aspirations.

ARNOLD PRIZE ESSAY.

1855.

THE ROMAN COLONIÆ UNDER THE EMPIRE.

SYNOPSIS.

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THE vast fabric of the Roman Empire was the creation of time and energy. "It was," said Cerialis, "by the fortune and ex-

perience of eight centuries that this firm system was compacted which cannot be uprooted without destroying them who would uproot it." ¹ Seven of these centuries had elapsed since the first rude beginnings of Roman society, when Augustus, with a sagacity that would alone entitle him to admiration, described the magic limits within which the power, if not the ambition, of his successors was destined to be circumscribed.² Up to this, the culminating point of Roman aggrandizement, the most remarkable phenomenon is the consistent greatness of Rome herself under marked alternations of disaster and success. Many are the records of her armies defeated, her territory invaded, the capital often threatened, and twice taken, by foreign enemies, while her annals exhibit no more than an average number of distinguished commanders. The modern historian laughs at the patriotic vanity of Livy,³ who could rank mere amateur generalship, such as that of Papirius and C. Marcius Rutilus, with the masterly tactics of Alexander. It may safely be affirmed that before Julius Cæsar, Rome had produced no general of first-rate ability. Nevertheless, her history is one of progressive, if not continuous success; of success due neither to her boasted fortune nor to individual achievements, but to the genius of her people and the consistent tenor of her policy. The means by which so durable and unique an Empire was formed and consolidated have ever been among the most interesting problems of history, and the great republic of Venice could find no better model of selfish and tyrannical wisdom than the venerable institutions of republican Rome.⁴

And yet the rise of the Roman Empire presents a less marvellous spectacle than the centuries which preceded its fall. It was no common stroke of fortune that stayed the tide of conquest, which had so long flowed uninterruptedly, and caused it to pause for many generations at its own highest level. That a power administered successively by some of the worst and weakest of mankind, spread over so large a surface, diversified

¹ Tacitus, *Hist.* iv. 74.

² The province of Dacia, which remained subject to Rome from the reign of Trajan to that of Aurelian, is an important exception.

³ Book ix. 17, sqq.

⁴ Philip de Comines, bk. vii. ch. 15.

by varieties of climate, race, and language, supported by no sound public opinion, shifted from hand to hand by military caprice and civil sedition,—that such a power should have held in awe the civilized world, and propagated even from its decay political and social germs, which in their maturity overshadow Europe, is a phenomenon of startling grandeur. It attests an original strength of constitution beyond all example, and almost verifies the ancient belief that the empire of Rome was imperishable.

The “Roman Colonies under the Empire” were the genuine children of their great parent, the inheritors of her character, the temporary sharers of her destiny. It is strange, yet instructive, that in the numerous progeny springing from her in the fulness of her power a likeness may be traced to the petty settlements of Fidenæ or Crustumerium, formed to defend a frontier not more extensive than the boundaries of a small English county. Perhaps the colonies founded by the emperors resemble in their nature and object those of the kings and early Republic, more nearly than those which took part in the Social War.¹ But the system to which they immediately belong dates from the consulship of Marius and Valerius, a hundred years before the Christian Era;² and the bands of veterans quartered by Sulla in Etruria and Campania were the type of those which, scattered by imperial edicts over the whole Empire, witnessed the last scenes of ancient history, and the birth of modern society.

Before discussing the foundation and constitution of these later colonies, some general outline of the chronological period over which they are dispersed, and of their geographical distri-

¹ It is of the early colonies that Cicero says (*contra Rallum*, ii. 27), “*Majores—colonias sic idoneis in locis contra suspicionem periculi collocarunt, ut esse non oppida Italiæ sed propugnacula imperii viderentur* ;” a description perfectly applicable to those planted by the Emperors.

² It has been observed that none but military colonies were founded after this time. (Zumpt, *Comment. Epigr.* 1850, p. 205.) Yet a distinction between those planted for merely strategical purposes, and those whose nature was partly agricultural, may be traced in the extant medals of imperial colonies (published folio by M. Vaillant), some of which bear an eagle, and others a plough, engraved upon them. The founder of Augusta Berytus is represented driving a yoke of oxen.

bution, is indispensable. The subject is involved in almost insuperable difficulties, since no ancient author professes to furnish a complete catalogue, few distinguish accurately between the formal creation of a new colony and the ordinary assignation of such Italian lands as occasionally fell vacant to fresh companies of veterans, and fewer still between the first establishment of colonies and the new detachments with which many of them were replenished. The imperfect notices of Velleins, Pliny, and Ptolemy, have to be supplied by the less trustworthy information of anonymous authors,¹ and by the precarious evidence of coins and inscriptions. After all, it is certain that large numbers of colonies were planted, especially in Italy, of which we have no account, and that many cities so entitled forfeited the appellation by compulsion or choice. Sufficient testimony remains, however, not indeed to fix the precise number founded by each emperor in each province, but to indicate the reigns and the regions in which colonization was most active and successful.

About three centuries, from Augustus to Diocletian, contain the foundation of all the settlements which can be properly called imperial. None of the succeeding emperors equalled Augustus in the number or extent of his colonies. Twenty-eight in Italy alone founded, and many others recruited, by him, added to sixty-five scattered over almost every part of the Empire, justify the proud boasts of the Ancyran tablet.² Thirteen are attributed to Claudius, in Italy, Africa, Gaul, Britain, and the East; eight to Vespasian. After a long interruption the process was continued by Trajan, himself a provincial, who planted four at least in Dacia, recently conquered, and eight in Cisalpine Gaul, a frontier whose importance he alone had the sagacity to discern. Seventeen in all can be traced to him. A much larger number emanated from the enlightened policy of Hadrian, the great majority of which were in the flourishing province of Africa. From this epoch till the colony of Nicomedia, the last of which there is any mention, was founded by Diocletian, the

¹ Such as the *Itinerarium Antonini*, the *Peutingerian tablet*, and a "*liber coloniarum*" published in the work of Lachmann. Zumpt, p. 199, sqq.

² "Colonias in Africa, Sicilia, Macedonia, utraque Hispania, Achaia, Asia, Syria, Gallia, Narbonensi, militum deduxi;" . . . "Italia autem colonias, quae vivo me celeberrimae et frequentissimae fuerunt, duodeviginti deductas habet."

outward stream of colonization is scanty and broken. It was finally stopped by the imperative demand for men in Central Italy, now almost emptied of her inhabitants, at the very moment when the peculiar liberties of colonies, already nugatory and effete, had ceased to be coveted. Sixty-one in "Italy," and two hundred and ten in the provinces, (including those of Julius Cæsar), is the sum total of the colonies whose foundation can be confidently attributed to the period of the Empire. But allowing for the deficiency of our knowledge with respect to certain parts of this period, and considering the strength of the indirect evidence for the existence of others, concerning which there is no record, double this number would probably not be too large an estimate for the aggregate of cities; distinguished by the Emperors with the designation of "Colony."

By far the largest number of these was congregated within the limits of modern Italy, which comprehends not only the Roman "Italy," but also Cisalpine Gaul, then the most thriving district of the Peninsula. The previous colonization of Italy under the Republic was completely overlaid and merged in the perpetual repartition of property by rival parties in the civil wars. Its agricultural population was by this time either extinct, or diverted into the army by conscriptions, or absorbed into the towns; nor do the countless thousands of veteran troops constantly thrown upon it for several centuries seem to have done more than replace the annual drain on its inhabitants, however great the injury they may have inflicted on its cultivation. Next in the number, and first in the prosperity, of its colonies stands the north coast of Africa, a province exceeding in fertility all others under the Roman rule, and exposed to few of those perils and disturbances by which the progress of material well-being is checked. Spain, and the provinces between the Danube and the north frontier of Greece, possessed about an equal number; but the Spanish settlements, planted chiefly under the two first Cæsars, and favoured by tranquillity, rose to much greater wealth and importance. Gaul, especially the southern part, though not remarkable for the relative number of its colonies, surpasses all others in their splendour and permanent influence. The first to feel the civilizing impulse of the Roman

manners and language, she was the last to lose the form, and never lost the impression, of those institutions which seemed to contain the embryo of that mighty character of which they were themselves the offspring, and were obliterated only to reappear with renewed vitality in the bosom of the new society. The remaining colonies were distributed over Britain, Dacia, Greece, the islands of Sicily and Sardinia, Asia Minor, and the extreme East, Syria, Mesopotamia, and Arabia.¹ In short, the area embraced by Roman colonization was co-extensive with the whole Empire, and bounded like it by the Rhine, the Carpathians, and the Euphrates, the Ocean, and the great deserts of Central Asia and Africa.

But the real magnificence of this vast colonial system is not to be conveyed in a mere geographical view. It comprised within itself the gorgeous temples of Palmyra and Baalbec; the ancient centres of commerce and manufactures, Tyre and Sidon, Corinth, Syracuse, and Carthage; the sacred precincts of Jerusalem;² the primitive Churches of Antioch, Laodicea, Philippi,³ and Thessalonica; Milan and Florence, the future chiefs of the great Italian Republics; Cordova and Seville, the destined strongholds of Moorish dominion; and the infant ports of London and Marseilles. Along the great river beds of the Rhine, the Danube, the Rhone, and the Guadalquivir, was stretched the same chain of stations, which lined the banks of the Syrian Orontes and guarded the approaches to the Alps at Aosta and Turin. Cologne and Bâle, Lyons and Avignon, Treves and Arles, Orange, Geneva, Friuli, Benevento, Ravenna, Naples, Damascus, and Acre, cities which have played an imposing part in the annals of war or of civilization, were but units in that majestic catalogue of dependencies, appendages to the kingdom of the Eternal City, which was to be "diverse from all kingdoms," and whose appointed task was "to devour the whole earth."⁴

The chronological and geographical limits of imperial

¹ One colony only is recorded in Arabia, which is reckoned among Trajan's conquests; but it is described as "*castris oppleta validis et castellis ad repellendos gentium vicinarum decursus.*" Ammianus Marcellinus, xiv. 8.

² Niebuhr, *Lect.* v. iii., L. cxx.

³ Acts xvi. 12.

⁴ Dan. vii. 23.

colonization having been thus defined, the next questions relate to their character and object. The former will be better understood after a brief sketch of the earlier colonial policy of Rome.

Before the age of Sulla, Roman colonies were founded on one of two principles. Either they were placed, like Fregellæ or Sutrium, to guard the most critical points in the border; or they were an expedient for relieving the state of its poorer citizens. Of the latter kind were the agrarian measures of the Gracchi, Appuleius, and all subsequent demagogues. After the civil wars, two new motives of colonization were introduced, the depopulation of Italy, and the necessity of providing for the veterans of a large standing army, 120,000 of whom are said to have been thus located by Sulla in all parts of Italy. Hitherto very few colonies had been established beyond the limits of modern Italy.¹ But with Julius Cæsar began the practice of regular provincial colonization.² In the earlier part of his public life he had twice carried agrarian laws for the partition of Italian lands among plebeians,³ but, once established in power, he proceeded to quarter the veterans whose services he had ceased to require on the provinces whose favour he no longer cared to court. Spain, Gaul, Egypt, and Asia, received the first instalments of an emigration that was soon to become a part of the standing system of imperial administration. During the short interval of the second triumvirate, a new accumulation of veterans was poured upon Italy, and the injury done thereby to the old proprietors is the theme of almost every author of those times.⁴ But the history of imperial colonies begins properly with Augustus, who was not only their principal founder, but to whom the systematic practice of reinforcing with fresh batches of emigrants decaying settlements, and all the refinements subsequently adopted, owed their origin. The colonies founded by Augustus and his successors include the whole number of

¹ Carthage was the first; Narbo Martius, founded B.C. 115, the earliest of those in Gaul. Salona, and one or two others in Illyricum, are mentioned by Cæsar.

² Suetonius, Cæsar c. 12; Merivale, *Hist. of the Romans under the Empire*, ii. 412-14; Zumpt, pp. 299-318.

³ Zumpt, p. 280, sqq.

⁴ Among whom are Virgil, *Ecl.* ix. 28; Horace, *Serm.* ii. 2, 114, etc.; Tibullus, i. 1-19, etc.; Propertius, iv. 1-29; Martialis, viii. 56.

"Roman colonies under the empire;" for by the operation of the Julian law the older colonies, both "Roman" and "Latin," had become municipia with the full Roman "civitas," under which name their origin is often concealed;¹ and most of them were afterwards resettled, as also were those of Sulla himself."

The various modes by which the peculiar rights of a colony were imparted under the Empire scarcely admit of classification. One fact, however, is universally true; they were invariably created by the deliberate act of the imperial government. None of them sprung, like the plantations of North and South America, from the enterprise, discontent, or commercial speculations of individuals. Even the assignation of lands by the Emperor, or the reinforcement of deserted "municipia" by fresh conscriptions of "coloni," was not held to constitute a "colony," unless the distinctive appellation was formally decreed; a melancholy reflection of the old constitutional law, by which a vote of the senate or people was essential to the foundation of a colony. Of these later settlements the larger number were purely military, composed of veterans dismissed after twenty years' service with a grant of lands, sometimes recently conquered, sometimes purchased from the state purse, or that of the Emperor. A second class was formed by draughts of the Roman lower orders;² another relic of the former system, resuscitated by Augustus, but not afterwards imitated. Some bodies of "coloni" were sent at the request of cities, whether ancient colonies or "municipia," unable to defend themselves, or suffering from scarcity of inhabitants. Lastly, the name and rights of a colony were granted to certain provincial towns, as a mark of distinction, or to gratify the vanity of individual emperors. But the genuine imperial colonies, those which alone were the result of far-sighted and consistent policy, were military in their composition and object, generally placed in the heart of towns already inhabited, and occupying the choicest of the surrounding districts.³ Care was taken that the spot chosen should

¹ Zumpt, p. 246.

² For instance, Epidamnus, Buthrotum, Corinth, and Carthage.

³ Exceptions are Lyons, Aosta, Turin, Saragossa, and Carthage, where towns were built by the colonists themselves.

depend in some degree on the extraction of the troops, the prætorians being assigned to Italy, the legionaries to the provinces. It is these colonies, as the type of all the others, the several causes of whose foundation we have now to discuss.

• Of these the first and most obvious is to be found in political necessity. The imperial domains, ample as they were, were inadequate to provide an honourable retirement for those to whose arms they were constantly indebted for their power. When once the custom of granting lands in lieu of pay and provisions was introduced, and fostered by the confiscations resulting from civil war, it became a necessary part of the military system. The Roman soldier was not a mere mercenary, but a free citizen¹ whose services were not to be obtained without the prospect of bettering, in his old age, his circumstances and civil condition. At a period when no freeman could belong to the very lowest rank in society, the labour of such a person was more valuable than that of the class whence the modern private soldier is drawn; and the same temptations were necessary to allure him which are now offered by our Indian government, a high salary and an ample pension.

But another and more urgent reason subsisted. Without such an expedient, Roman dominion could not have been maintained. The imposing symmetry of the Roman Empire, the simplicity of its mechanism, the apparent coherence of its parts, its infinite capacity of expansion, above all, the stupendous space which it fills in universal history, is apt to blind us to the precarious tenure of its actual power. Let us assume the position of a spectator in the first two centuries of our era. The relics and hopes of civilization are centred round the shores of the Mediterranean; those shores once parcelled out among states presenting the strongest contrasts of government and manners, and still inhabited by the most diverse races, yet now without exception under the sway of Rome. That sway is bounded by a most irregular line, in some places stretching inland many hundred miles, in others leaving but a narrow belt of sea-coast, but everywhere skirted by a region of savage tribes of unknown extent. All along that wild and dreary frontier

¹ Zumpt, pp. 452, 453.

Roman subjects looked out upon a world of which they knew little but that it was not Roman, that it had not, like themselves, been conquered. But with all this ignorant curiosity was mingled a feeling of apprehension. The tarnished standards of Crassus, the lost legions of Varus, the desperate contest waged by the Gauls against Cæsar, by the Germans against Germanicus, and by the Dacian nations against Trajan, warned the Roman Emperors that a sovereignty acquired by force, and a despotic protectorate exercised for the sole benefit of the stronger,¹ are not secure without constant vigilance. Those of them who were not blinded by the infatuation of debauchery contemplated with anxiety the possibility of combination among forces which were so formidable singly, and desecrated the storm of barbarism gathering on the horizon of civilization. Under the influence of this instinct, the whole Roman empire became a vast military position, held in force by nearly half a million of men, who were divided into several standing armies, and posted in the quarters most open to attack. In this view, many of the colonies represent strong pickets thrown out on the outermost borders of the empire, composed of soldiers of tried fidelity, and pledged by motives of self-interest to defend the lands assigned to them till troops could be moved to their relief. Thus the imperial policy resembled that of the early Turkish sultans, and the Roman colonists were the prototypes of the Timariots. This, however, is more emphatically true of the earlier military colonies, such as those of Placentia and Cremona, intended to repel the invasion of Hannibal, where the body of emigrants proceeded to their destination, *sub vexillo*, in the form of an army of occupation. In later times, when the individuality of single legions was no longer preserved in colonization, the same object was effected, but more indirectly and peacefully, by amalgamating gradually with the neighbouring population, and infecting them with a spirit of obedient subordination, which was their best security against the incursions of the barbarians in their vicinity.

Thus, besides their effect in checking the shock of hostile

¹ Heyne, Opusc. v. iii. "De Romanorum prudentiâ in coloniis regendis." The author denounces, in somewhat exaggerated terms, the selfishness and harshness of the Roman policy.

invasion, the colonies contributed to strengthen the insecure possession of the provinces already conquered. Elements so heterogenous as those which constituted the Roman Empire may long be held in solution, but cannot combine into a solid mass. It is only in reference to the early republic that the foreign policy of Rome can be described as a system of gradual incorporation. So delicate and laborious a process could not be successfully carried out on a scale commensurate with the huge proportions of the empire. The extension of citizenship had already been strained beyond the utmost limits compatible with centralization, before the invention of the representative principle. As the circle widened the benefits of the franchise became progressively diminished; and on a recapitulation of the stages through which it passed, it will appear that the colonies were the last, as they were the first, link between Rome and her remote dependencies.

Italy, in the eighth century of the city, was attached to Rome by a full equality of rights. The ancient "*coloniæ civium Romanorum*," and the later "*Latiniæ coloniæ*" had thoroughly leavened the Italian population, and prepared them for the sweeping measure¹ of incorporation called the "*Lex Julia de Civitate*." A new "*Latinitas*," more or less modelled on the privileges of the old "*Latini*," had been conferred first on the "*Transpadani*" by a "*Lex Pompeia*," then by the "*Lex Junia Norbana*" on a large class of freedmen, hence called "*Latini Juniani*,"² and afterwards on whole towns and countries by the bounty of individual emperors.³ The most important article in these charters was the provision granting the Roman "*civitas*" to those who had filled a magistracy in their own cities, a privilege formerly belonging to the *Fœderatæ Civitates* of Italy, but superseded in most cases⁴ by the "*Lex Julia*." Even

¹ B.C. 90. By this law the *civitas* was granted to all the "*Latini*," and "*Fœderatæ Civitates*," who would formally accept it (*fundi populi*). Madvig de jure et conditione coloniarum P.R. Opusc. p. 290.

² Madvig *ib.*, p. 277. The *Lex Pompeia* was passed B.C. 89.

³ As on the whole of Spain by Vespasian. Pliny, *Hist. Nat.* iii. 4. The two municipia of Britain (York and Verulam), are distinguished from the ten cities with the "*jus Latii*." Preface to Savigny's *Hist. of Roman Law*.

⁴ Heracles and Neapolis preferred their former condition. Cic. *pro. Balbo*, c. 7.

foreigners, being members of cities in alliance with Rome, were competent to acquire the "civitas" after the fulfilment of certain conditions.¹ Such was the state of things under the first emperors. In process of time the same tendency to uniformity which had produced the enfranchisement of all the Italian towns led to the transformation of the chief provincial communes, not being colonies, into the stated condition of "municipia,"² a term denoting the possession of complete municipal rights with an entire political dependence on Rome. Local interests were wholly merged in those of the central government; for the establishment of provincial councils³ was probably a temporary, as it was certainly an inefficient, expedient, and the mere distance from the seat of empire must have rendered the suffrage of ex-magistrates almost worthless, even if the growth of despotism had not impaired its intrinsic value. And when by a constitution of Caracalla all the cities in the empire were turned into "municipia," and the Roman "civitas" conferred on the whole Roman world, the free intervention of citizens in government had already disappeared, political rights were a nullity, and the imperial rescript served only to increase taxation⁴ and level the distinctions between citizens and subjects. The provinces were now Romanized, but their inhabitants, though they had ceased to be Syrians or Gauls, were not truly Romans; their political like their social state was a kind of living death; for they were bound, like the victims of the old Etruscan tyrant, to the dead body of the Roman state, and felt their own destinies associated by a mysterious law with a power which they hated and yet could not shake off.

A different spirit animated the military colonies. In their origin, and very names,⁵ in the nature of their population, in the form of their constitution, in the tenure of their privileges, the colossal image of the Roman Empire stood constantly before them. Even those which received the name of colonies

¹ Cic. pro. Archiâ, passim.

² Guizot, Representative Govt. Lect. xxii.

³ Palgrave, Rise and Progress of the English Commonwealth, i. x. p. 336.

⁴ Gibbon, v. i. ch. 6.

⁵ The names Augusta, Flavia, Trajana, etc., perpetually recur, and the instances are not numerous in which the ancient appellation of the town was retained.

without a change of inhabitants were under an obligation to imperial gratitude or caprice;¹ while with the loyalty of the scattered detachments of veterans was probably mingled a sentiment of military allegiance to the great captain-general of the army.² Their first inhabitants, whatever their birth-place, had all passed through the wonderful process of military discipline, had seen that aspect of the Roman administration in which it was still truly great, had been part of a system which was the last to totter in the final crash of the Empire, owed all to the bounty of Rome, and had nothing to hope from her ruin. Settlements like these retaining their distinctive name of "*coloniæ*" amid all the varieties of municipal organization, and characterized by a superior degree of energy and intelligence, cannot but have operated as a salutary check on a disposition to insurrection, while they gradually infused a Roman element into the life blood of the provinces. Hence it is that, notwithstanding their military character and constitution, the number of colonies is generally found to be in inverse proportion to the turbulence of the provincial population. The senatorial province of Africa had no less than fifty-six, while nine only were planted in Britain,³ and six in Dacia,⁴ the two most difficult and insecure of the Roman conquests. For the multiplication of colonies was both the cause and the result of comparative tranquillity; a certain degree of order and security was necessary to their formation, and was at the same time guaranteed by their presence.

But another obligation was owed by Rome to her foreign

¹ "*Puteoli jus coloniæ et cognomentum a Nerone adipiscuntur*," Tac. Ann. xiv. 27. *Faustinopolis* was a colony formed from the little village of Halala, under Mt. Tannus, by M. Aurelius, in honour of his wife Faustina. Cologne was founded by Claudius, and named after Agrippina, Nero's mother. Tac. Ann. xii. 27. Commodus contemplated making Rome itself a colony with the addition of his own name.

² The military origin of the title "*Imperator*" is explained by Zumpt, *Comm. Epigr.* pp. 20, 21.

³ Colchester, Richborough, London, Gloucester, Bath, Caerleon, Chesterford, Lincoln, Chester. Preface to Savigny's *Roman Law*. Compare Gibbon, ch. ii. p. 48; and Palgrave, *Engl. Commonw.* i. x.; and Zumpt, p. 46.

⁴ Zernes, Ulpia Trajana, Apulum, Patavissa, Napoca, Porolissus. Arrowsmith's *Geography*, p. 314; Zumpt, 404-406.

colonies. They relieved her of a burden that must otherwise have been thrown upon the State. It is true that the population of Italy, never superabundant according to modern notions, was gradually dwindling to a minimum, and that many of Augustus' colonies were expressly formed "*frequentandæ Italiæ causâ.*" But the regular draughts of prætorians engrossed all the lands which remained unappropriated after the agrarian laws of Gracchus, Drusus, and others, and the repeated allotments of Sulla, Cæsar, and the triumvirs. It was not, therefore, the pressure of population, but the low state of agriculture, the unequal division of property, and the wholesale employment of slave-labour in the odious "*latifundia*,"¹ that oppressed Italy with the anomalous necessity of expatriating thousands whose labour she needed, but whom in the meantime she could not support. The descendants of the first adventurers, rewarded with allotments, covered the face of the country with luxurious villas and ornamental parks, while arable land was being rapidly converted into pasture, the dignity of labour was unknown, commerce flagged for want of home produce, imports exceeded exports in a fearful proportion, the populace lived on the prodigality of their rulers, and the useful arts were almost abandoned to slaves. Sicily, exhausted by the evils of civil war, and the annual demands of the Roman market,² was unable to bear any more colonization. Cisalpine Gaul, by the early acquisition of the Latin franchise, seems to have obtained a comparative immunity from military colonies.³ There was, therefore, no longer room in Rome itself, and no sufficient outlet but the more distant provinces for the influx of veterans yearly superannuated from an army of several hundred thousand men. All other ties but those which bound them to the State they had long since broken, and the State was neither physically nor politically able to contain them. The colonies promised two things which the home government had it not in its power to bestow, a competent life-

¹ Sir J. Stephen's *Lects. on the History of France*, Lect. 1.

² Arnold's *Roman Commonwealth*, ii. xi. 359.

³ Arnold, *ib.* ii. xi. 357. This district had received several colonies, such as Turin, Bononia, etc., soon after Hannibal's invasion. Aosta was colonized by Augustus himself with Prætorians after the extirpation of the Salassi. Strabo, iv. 6, 7.

income,¹ and an adequate political status, without that which at home was provided in perilous abundance—the motives of disaffection, and means of agitation.

With these considerations of public utility it is reasonable to believe that the taste and interests of the colonists themselves tended to concur. To them a residence in or about the capital could have presented no attractions. It is a singular fact that rural life has ever been more congenial to the military spirit than the restless fermentation of cities. Especially to the Roman legionaries must the present condition of Rome and its neighbourhood have appeared peculiarly repulsive. They cared not for politics; nor, even if they had, did the aspect of politics, except under a very few emperors, open a field of action to men who still retained some self-respect. A life of active service never fails to produce a certain type of character, inferior indeed to that which is engendered by the energy of peaceful civilization, but far above the ordinary level of courtiers and debauchees.² The army of Rome had the usual vices of armies—violence, licentiousness, and contempt for the arts of peace; but the populace of Rome, and still more the higher orders, had sunk to a depth of degradation altogether unparalleled, and amid the satiety of profligate luxury were destitute of the pleasures as well as of the restraints belonging to order and decency. Political debasement had led to social misery; the middle classes, the key-stone of the body-politic, had disappeared; the canker had penetrated into the bosom of the family. Never in the history of the human race was life, whether political or domestic, so thoroughly unhappy, never was virtue so scarce; and when, at times, some noble being, such as Agricola, passes across the scene, it is only to cast a glance “more in sorrow than in anger” over the gloomy landscape, and to vanish, often to be removed by the arts of envy, from a world unworthy of disinterested greatness. At such an epoch the freedom, no less than the

¹ The lands granted to veterans could not be sold, according to the law of Julius Cæsar, for twenty years; but were descendible to their children. Some other agrarian laws prohibited sale altogether. Zumpt, p. 280.

² The legionaries at Placentia upbraided the Prætorians as “*segnem et desidem et circo et theatris corruptum militem*” (Zac. Hist. ii. 21); and many instances are recorded by Tacitus of the same contempt for the city.

purity, of manners, among the Germans and other barbarian tribes, may well have appeared to the Roman veterans, as they did to Tacitus, in favourable contrast with the dismal stagnation and portentous corruption of Roman society; they may have gladly turned from the disgusting spectacle of crime and destitution to their little freeholds, which, though sometimes wild and barren,¹ afforded a healthy scope to their energies, an honest maintenance for their families, and a resting-place to their declining age among their old companions-in-arms. Their attachment was to the Roman army rather than to the Roman people, and such associations were preserved by a wise foresight, which assigned contiguous lands to soldiers of the same legion.² Here, instead of being confounded with the mob, and despised by the insolent prætorians, they found themselves in the position of an aristocracy, endowed with the privileges of the ancient Roman patricians, and envied by a commonalty, containing, like the Roman plebs, the nobility of the conquered countries.³

Such was the origin and purpose of the imperial colonies, and it was in this, rather than in their actual constitution, that they differed from the free provincial cities of the same period. There was a progressive tendency to assimilation between "those societies which had issued from, and those which had been received into, the bosom of Rome."⁴ The original distinctions of "colonie" and "municipia," were such as could not fail to be diminished by lapse of time. The greater distance of the newly-planted colonies from the metropolis precluded the exercise of those franchises, which at first were their characteristic property.⁵ At the same time the local institutions and laws of the municipia were continually becoming obsolete. Under

¹ "Si quis tot casus vitæ superaverit, trahi adhuc diversas in terras, ubi per nomen agrorum uligines paludum et inculta montium accipiant." Such is the complaint of the Pannonian legions. Tac. Ann. i. 17.

² That this was a substantive part of the system appears from the discontent of the soldiers whenever the principle was infringed. Tac. Ann. i. 17, xiv. 27.

³ Nieb. Hist. v. i. p. 27.

⁴ Gibbon, I. ii. p. 48.

⁵ Zumpt, p. 199. Madvig (Opusc, p. 247) proves that the colonists always retained the "jus suffragii" however their distance from Rome, and the extinction of popular rights under the Empire, may have rendered such a privilege nugatory. Compare, too, Lewis, Govt. of Dependencies, ch. ii. p. 133.

the operation of these converging forces the relation of colonies to "municipia" was rendered more and more intimate, and the external similarity of the two was made nearly complete by the action of influences arising from geographical position, and therefore common to both classes of towns. Thus it was that in the age of the Antonines an apparent uniformity of political rights united all the municipal corporations of the Roman world, which was consummated soon afterwards by the edict of Caracalla, and later by the perfect "network" of administration spread over the whole Empire by Diocletian.¹

Nevertheless the occasional voluntary change of "municipia" into colonies, and of colonies into "municipia," under the earlier emperors,² proves conclusively that then at least the two conditions were not regarded as absolutely identical. In the former case, doubtless, the desire of additional security or of a diminution of burdens may have prompted provincial towns to purchase these advantages by the cession of a part of their public lands to the immigrants.³ But a comparison of the different and often contradictory expressions of contemporary authorities points to a further distinction between the "municipia" and the "coloniæ," in that the latter may be said to have enjoyed greater political but less municipal independence.⁴ It is to this latter distinction that A. Gellius refers,⁵ when he describes the condition of a colony as more honourable than that of a "municipium," but "magis obnoxia" and "minus libera." No option

¹ Pliny enumerates the nominal distinctions prevailing in his own time. Speaking of Hispania Citerior, he says, "Continet oppida clxxix.; in iis colonias xii.; oppida civium Romanorum xiii.; Latinorum veterum xviii.; fœderatorum unum; Stipendiaria cxxv." Hist. Nat. iii. 3, 4; comp. A. Gellius xvi. 13. Pargrave (I. x. 29) thinks these distinctions were annulled in the age of the Antonines. So Lewis, Govt. of Dependencies, ii. 129.

² Madvig Opusc. p. 293; Heyne, vol. III. i. c. Hadrian expressed surprise that the Spanish municipia of Gades and Italica should solicit the title of colonies (A. Gellius, Noct. Att. xvi. 13.) Comp. Gibbon, vol. i. p. 48. The colonists of Præneste on the contrary obtained a municipium from Tiberius, as a mark of favour (A. Gell. l. c.).

³ Nieb. Hist. V. i. p. 49.

⁴ Zumpt, the early part of whose work (Commentationes Epigraphicæ) proceeds on the assumption of an identity between the two constitutions, admits (p. 486) a certain superiority in those towns, which had the "jus Italicum," which so far as their constitution is concerned seems to have belonged to all colonies.

⁵ xvi. 13.

was left to a colony as to its civil law or the form of its constitution. Both were modelled on the framework of those to which the Roman people was subject, and shared the development or degeneracy of their august prototypes. But, except this obligation of conformity to Rome, it seems probable that the condition of colonies approximated far more nearly to the class of petty "sovereign states" than that of other free towns. The proof of this involves a consideration of the colonies, first, as a part of the general provincial system; secondly, in their own peculiar organization.

The mere desire of empire never operated on so vast a scale as in the declining days of Rome, till it was merged in the pressing necessity of self-defence. The honourable ambition of influencing by their institutions, arts, and manners, less favoured races, and the enterprising spirit of commerce, entered at least partially into the Greek ideas of colonization. No such motive was mingled with the love of rule in the Roman emperors. Order, without liberty, was the highest aim of their administration, the ill effects of which were speedy and direct, while the compensation in the gradual spread of social refinement was slow and unpremeditated. Let us briefly sketch the mode of government adopted in the imperial dependencies, that we may see what place in it was occupied by the colonies.

The administration of the Roman provinces resembled that which the enervating effects of climate have made necessary in India. It was vested in a succession of functionaries, delegated directly by the central government, and not necessarily bound by any tie of birth or interest to the district whose affairs they superintended. Four "prefectures," under "prætorian prefects," two of the East, two of the West, comprised the whole Empire. Each "prefecture" was subdivided into "dioceses," ruled by "vice-prefects;" each "diocese" into "provinces," governed by "consulares," "correctors," or "præsides."¹ An enormous staff of ministers and officials formed the establishment of the prefect or governor, and discharged all responsible functions. The final decision of every question of importance was referred to the imperial representatives, subject to an appeal to the

¹ Guizot, *Civilization in France*, lect ii.; Palgrave, I. x.

emperor. In their hands were placed all those powers which the wisdom of modern statesmanship has confided to separate and independent departments, the executive, the judicial, and the legislative; for without their sanction the resolutions of municipal or provincial assemblies had no efficacy. In short, the political existence of the provinces was concentrated in that of the Roman Commonwealth, and the whole power of the Roman Commonwealth was swayed by the Emperor.

The absolute sovereignty of Rome being thus secured, the exercise of it was mild and liberal, until the exigencies of despotism were increased by its increasing weakness. The subdued provinces were permitted to retain their own civil law, religion,¹ language, and mode of life, with those modifications only which were requisite to ensure their obedience. Both in Britain and Africa instances occur of native kings (*reguli*) who ruled under the protection of their conquerors. No unreasonable taxes were levied by the imperial government, and subject to "tithes," and a land-tax of variable amount, the rights of the existing proprietors were left undisturbed. It was the provincial imposts,² exacted in the first instance for the necessary purposes of internal police and defence, and still more, the avarice of particular governors, which produced the state of debt often resulting in open revolt.³ Among the institutions retained by the vassal nations was the original municipal government of their towns, which in Gaul, the province of which most is known, was generally aristocratic. Under the name of "*Decuriones*," or "*Curiales*," a term transferred from the colonies, the ancient nobles of the Gaulish states remained in office, and were invested with hereditary senatorial functions,⁴ together with all who pos-

¹ The only exception to this is the case of the Druids in Gaul, who were suppressed by Tiberius and Claudius. Gibbon, ch. ii.

² Such as "*ostiaris*," "*columnaris*," commutation for military service, "*imperatæ pecuniæ*" (on special exigencies), etc. The central Government reaped no benefit from these. Arnold, *Rom. Commonw.*, II. xi. 350-353; cf. Gibbon, ch. ii.

³ Tac. Ann. iii. 40, speaking of the revolt under Florus and Sacrovir. The creditors were generally Roman "*equites*."

⁴ All the other authorities, whom I have consulted, concur in identifying the "*ordo decurionum*," with the senators. Guizot, however, considers these last as distinct, nearly identical with the "*honorati*" and "*clarissimi*," and composed of those distinguished provincials who had been honoured with a seat in the Roman Senate. (*Civ. in France*, lect. ii.)

sessed a certain property qualification. The decline of popular government in Rome, reflected in the disuse of popular assemblies abroad, gave additional dignity to this senate, though their authority, checked on all points by that of the governor, the true "judex ordinarius" of "municipia,"¹ yet forced on them by the most stringent enactments,² resembled a burdensome service rather than an honourable privilege.³ In later times a more efficient protector was granted to the defenceless municipalities, with the title of "defensor," an officer whose negative power was converted by custom, sanctioned by an edict of Justinian, into a regular magistracy.⁴ A still more popular element was recognized by the legalization of "collegia," or guilds,⁵ societies founded on distinctions of caste of immemorial antiquity,⁶ but analogous in some respects to the "Arts" of the Italian Republics. In the provincial or diocesan councils, so long as they existed,⁷ the delegates of the free "municipia" consulted upon the redress of grievances, and conveyed their petitions to the Emperor through deputies who in modern days would be called popular representatives. Even single "civitates" had the right of addressing the emperor, not only on matters affecting their private interest, but also on the conduct of his own governors;⁸ a privilege, however, which was afterwards curtailed. No indifference was shown to such wants or remonstrances of the provinces as did not interfere with the policy of an enlightened despotism. That the "dignity of governing depends on the dignity of the governed," was a maxim as little regarded by the ancient conquerors of Europe as it has hitherto been by the modern conquerors of India; but in either case the civil liberty of the subject has been adequately secured.

The immense dependencies of the Empire may thus be said to have enjoyed a good government, if such a notion be con-

¹ Savigny, *Hist. of Roman Law*, i. 2.

² Guizot, *Civ. in France*, lect. ii.; *Represent. Govt.*, lect. xxiii.

³ The offices in municipia were "munera," not "honores."

⁴ Savigny, i. 2; Guizot, *Represent. Govt.*, lect. xxiii.

⁵ Sometimes called "sodalitates."

⁶ Palgrave, *I. x.* 331, sqq.

⁷ Cf. *Supra*, p. 15.

⁸ Palgrave, *I. x.* 336, etc., Guizot, *Civil. in Europe*, lect. ii.

sistent with the utter political, social, and moral degradation of their inhabitants. But their condition, such as it was, was absolutely subservient to the interests of the central government, which, with the true instinct of intelligent tyranny, affected to encourage every symptom of activity and material improvement which could struggle to light under the chill shadow of its dominion.¹ It may be that the subject nations almost forgot their loss of liberty in the vast dimensions of their prison-house. But their apathy was the insensibility akin to dissolution; and the depressed state of civilization and morality² under the later emperors, in spite of the tranquillity of the provinces, is one of the enduring protests of history against absolute government.

There is reason to think that the colonies, at least for a while, were favourably distinguished from the rest of the empire. Experience teaches us that the citizen of a free state carries with him to the land of his adoption a spirit of independence, which commands the respect, and often defeats the selfishness, of the mother-country. North America could never be governed, as India has been, by officers nominated in England; and even in the Spanish colonies of South America, which, "from the first were checked and controlled by the over-legislation of the parent-country," the formation of towns was encouraged, which were endowed with the privileges appertaining to similar corporations in Spain itself.³ And though, in the Imperial policy, no trace appears of the high parental ambition which makes a free people glory in having given birth to other communities of free agents which may live to bless mankind, when itself shall be no more, yet some motive of affection or necessity would seem to have secured the colonies against the arbitrary authority of pro-

¹ The shameful prohibition of Sardinian agriculture by Carthage, in order that the island might depend for its supplies on Africa, was not more truly selfish than the legislation which made the provinces depend on Rome for their moral, almost as much as for their civil, existence.

² Robertson, *View of the State of Europe*, Note ii.

³ Prescott's *Ferdinand, and Isabella*, ch. vii., part ii. Nieb. *Hist.* i. 48, and Lewis, ch. ii. p. 117, compare the Roman colonies under the Empire to the Venetian colony in Candia (where there was a Doge): and the latter adds the analogy of the recent French colony in Algiers.

vincial governors, and to have made them at least the most honourable members in the commonwealth of dependent cities. The despotic character of the relation between father and son, as defined by the Roman jurisprudence, was amply realized in that between Rome and her colonies.¹ But the ties of blood were not forgotten; it was long before the son degenerated into the slave; subordination, and not servitude, was, theoretically at least, the duty prescribed. The privileges originally attached to the condition of a colony, so far as they can be ascertained, were of two kinds, the one concerning their relations with Rome, the other concerning their internal administration.²

In the government of dependencies the most important questions are those respecting the franchise and taxation. On both of these heads some provision was made for the liberties of the imperial colonies.

That the complete "civitas," including the "suffragium," anciently belonged to Roman colonies has been established by recent authors.³ The supposition that such a right was afterwards repealed, besides its inherent improbability,⁴ is at variance with such facts as are known.

First. We learn that in the time of Augustus two members of each colonial "decuria" were sent "to Rome to watch over the interests of their constituents at the seat of government."⁵ Such an institution indicated indeed a period when the circle of colonization was not very widely extended, and after the popular assemblies, and even the senate, had become the tools of an individual will, could not have retained much importance. But as a proof that the colonies were regarded as members of the governing body, the evidence is highly valuable.

Secondly. Suetonius mentions⁶ that Augustus issued a decree empowering the "decurions" of colonies to transmit

¹ Nieb, Hist. V. i. p. 46.

² Few questions have been so much disputed as those relating to the political and civil privileges of the colonies. For most of the facts (though not of the conclusions), I am indebted to Zumpt.

³ Especially by Madrig, "De jure et conditione coloniarum." P. R.

⁴ Madrig, ib. p. 247.

⁵ Merivale, III. xxxii. p. 527. Comp. Palgrave I. xi. 840 (quoting from the Theodosian code).

⁶ Augustus, c. 46; cf. Savigny, i. 2, p. 23.

their votes in writing, and under seal, to Rome, a regulation which, while it added to the ascendancy of the decurions over their fellow-citizens, exhibits the desire of Augustus that the colonies in their corporate capacity should continue an integral part of the Roman people.

While there is no evidence that any towns but the colonies were intended to share in the benefit of these measures, there is a strong presumption to the contrary in the fact that at this time, and long afterwards, the "*jus Latii*," a privilege distinguished, as we have seen, from the mere civil rights of the "*jus Quiritium*," in that it conferred the Roman franchise on those who had filled magistracies in their own towns,¹ continued to be desired by other provincial municipalities. This could hardly have been the case if their previous status had been identical with that of the colonies; and we therefore conclude that the apparent equality of rights between the two in later times was contrary to the spirit of the Roman law, and was the accidental result of those causes previously described as reducing the colonial franchise to a mere nominal honour.

Respecting the degree of immunity from taxation enjoyed by the colonies, much diversity of opinion has prevailed. It cannot be supposed that corporations to which the neighbouring districts were often assigned as tributaries,² would be themselves burdened with all the exactions imposed by conquerors on subjugated provinces. Indeed the general testimony against such a theory is so strong that most authors³ have described the colonies as absolutely free from imperial taxation. On the other hand the "*jus Italicum*,"⁴ that privilege so highly prized when others had lost their value, conferred among other rights that of complete immunity. It is a striking illustration of the superior rank of colonies that no authentic instance is extant in which this privilege belonged, at least in the third century, to

¹ Sigonius de antiquo jure Italiæ, ii. 3.

² As in the case of Capua, Trieste, and Nîmes. Zumpt, p. 140, ib. 470-471.

³ For instance, Arnold, R. Comm. II. xi. 349-352.

⁴ The "*jus Italicum*" is divided by Savigny (1, 2), into three parts. 1. Rights of quiritarian ownership, commercium, etc; 2. Immunity from land-tax and capitation; 3. A civic constitution similar to that of the Italian towns. Subsequent authors have justly disputed this account.

any but colonies.¹ Yet it certainly did not appertain to all; and the question arises, what kind of immunity was secured to a colony, independent of the "*jus Italicum*."

A passage quoted by Zumpt from Paullus, seems to prove conclusively that colonies were not exempted, as such, from the regular land-tax or from the poll-tax (*capitatio*).² "*In Palestinâ duæ fuerunt coloniæ, et Cæsariensis et Ælia Capitolina, sed neutra jus Italicum habet. D. Vespasianus Cæsarienees colonos fecit, non adjecto, ut et juris Italici essent, sed tributum his remisit capitis; sed D. Titus etiam solum immune factum interpretatus est.*" Unless therefore, there were a distinction between the military and the honorary class of colonies, neither the "*capitatio*," nor the ground rent reserved to the state, was remitted to the colonists; and it would appear from another passage of Paullus,³ that exemption from the latter was not always included in the "*jus Italicum*." For these direct taxes were not more than an equivalent for the vast amount of indirect taxation imposed upon Italy from the time of Augustus downwards.⁴

But there was a large class of taxes among which tithes and indiction⁵ were the most vexatious, the latter being virtually levied at the discretion of the provincial governors, from which it is reasonable to suppose that the colonies were exempt, at least until the cruel bounty of Caracalla confounded all extra-Italian municipalities, and burdened them all with the peculiar obligations of Italians in addition to the accustomed exactions of their own "*publicani*."⁶ After this, the decurions of colonies, as well as those of "*municipia*," were charged with the payment and subsequent collection of constantly increasing taxes, direct and indirect,⁷ besides the occasional "*aurum coronarium*"⁸ which they defrayed from their own private resources.

¹ This point is established by Zumpt (pp. 81-82) from Paullus, and Ulpianus.

² A tax levied on all classes. Guiz. Civil. in France, II. vii. 131.

³ Quoted by Zumpt, p. 484, "*Laodicea in Syria et Berytus in Phœnice juris Italici sunt, et solum earum.*"

⁴ When this emperor found that a proposed legacy duty was unpopular, he threatened to substitute a general land-tax and *capitatio*. Cf. Gibbon, I. vi. pp. 209-216.

⁵ Gibbon, I. vi.

⁶ Gibbon, II. xvii.

⁷ Gibbon, II. xvii.

⁸ Gibbon, *ib.*; Guizot, Civil. in France, lect. ii.

If the relation of the colonies to the metropolis appears thus vague and unsatisfactory, neither can much light be thrown on the municipal and private rights enjoyed by them. The same looseness of expression among the original authorities, and difference of opinion among their interpreters, besets this branch of the inquiry.

With respect, however, to their constitution, no doubt can be entertained that they were self-governed, so far as "*jurisdictio*" was concerned. This, a modification of Savigny's opinion,¹ is thoroughly consistent with all that we know of the older Roman colonies, with the general principle of Roman colonization,² and with the little evidence that can be gleaned from coins and inscriptions. It is clear that no "*municipium*" possessed magistrates with the peculiar attribute of "*juri dicundo*;" moreover, that certain colonies not endowed with the "*jus Italicum*" did possess such magistrates; nor is there any reason to doubt that this distinction was characteristic of all colonies. It further appears that the executive government of "*municipia*" is in the great majority of cases termed *III. viri*, while that of colonies is generally called *II. viri*, a strong presumption that in the former instance no two officers were so far raised above the rest as to have acquired the prerogatives of "*Summi magistratus*."

It is objected, that a constitution with *II. viri*, *cediles*, and *censors*, being that of the Italian cities, is an essential part of the "*jus Italicum*," and therefore cannot have belonged to colonies prior to the possession of these rights. To which it may be rejoined that the idea of the "*jus Italicum*," as conceived by modern authorities, is founded rather on the known condition of the Italian towns, than on the change apparently produced by it on the condition of the colony, so enfranchised. Probably the total immunity already mentioned was the most valuable article in this charter; and certainly no evidence supports the assumption that such a constitution, though doubtless

¹ Savigny recognizes this constitution in Italy, though not in the provinces; but Zumpt produces cases in which magistrates of provincial towns are called *ii. viri*, or *iii. viri*. *i.d.*; not, however, I think, of any towns but colonies.

² Cf. Gellius, *xvi.* 13.

contained in it implicitly, was confined to those cities which enjoyed it.¹

The internal government, then, of a Roman colony was modelled on that of the metropolis, and vested in the following system of functionaries.

An aristocratical body, analogous to the Roman senate, and called "*ordo decurionum*"² or "*curiales*," composed of a certain number of families,³ enrolled according to prescribed qualifications, and recruiting itself constantly with new members of its own choice. Their deliberations were controlled by a "President" or "*Principalis*," answering to the Roman "*princeps senatûs*."⁴ The rise of the decurions as the governing class of their own towns dates from the period when those political rights, which could be only exercised by them at Rome, virtually ceased to exist. In this body all administrative functions, the importance of which tended to diminish, together with the rapidly increasing responsibility of advancing and raising taxes, were invariably concentrated. Out of it were elected, at first by the people, but afterwards by themselves, the various public officers.

The chief of these were two in number, "*II. viri juri dicundo*,"⁵ the representatives of the consular, or rather of the old prætorian, authority.⁶ Wherever these officers existed, it is admitted that their duties were mainly judicial; and their existence could not but have been a powerful guarantee of municipal liberty. Doubtless their importance degenerated progressively, and was perhaps at last reduced to the regulation of matters of police. Meanwhile, however, they were the highest executive

¹ Even Spanheim did not fall into this error; for while he arbitrarily assumes two classes of colonies—the one more honourable, the other (invested with the *jus Italicum*) more advantageous—he never supposes the former to have wanted the regular form of a petty Roman republic. *Orbis Romanus*, Disp. II.

² Guizot, *Civ. in France*, Lect. ii.; Palgrave, I. x. 330, sqq.; Savigny, i. 2.

³ Guizot and Savigny agree in estimating the average number of decurions at 100.

⁴ Other explanations have been given of the *principales*. This is the view of Palgrave, I. x. 331; and of Savigny, i. 2.

⁵ Zumpt has shown (p. 166) that, where *III. viri i.d.* are mentioned, two only of them really possessed judicial power. They are variously called "*magistratus*," "*consules*," "*prætores*," "*dictatores*."

⁶ Cic. says (*contra Rullum*, ii. 34), that a few towns retained the name "*prætores*;" "*cum cæteris II. viri nominentur*."

and judicial officers, controlling both the commonalty and the "curia" of the colonies; which, so long as their authority remained intact, could afford to disregard the regular prætorian edicts promulgated by governors on entering office. It could only have been in the abuse or decline of their power,¹ that the tribunitian prerogative of the Defensor became a necessary precaution; if, indeed, such an institution was ever extended to the colonies. It was the triumviral magistracy for which a "Præfectus" sent from Rome was occasionally substituted; but it does not appear that the civic rights of the burghers were compromised thereby.²

A lower class of municipal functionaries is mentioned under the name of "censores" or "curatores," whose office apparently varied in different municipalities, in some resembling that of ædiles, including the charge of public works and buildings, in others similar to the quæstorship, and respecting the general management of public lands and revenues.

Others connect the "censores" with the "quinquennales," whose functions certainly present many remarkable points of resemblance to those of the Roman censors, but who are more properly identified with the chief magistrates, whatever their denomination might be, of "municipia" and colonies.³

It would be useless to pursue farther the details of the colonial constitution, such as the several orders of the privileged classes, the gradations of rank among the decurions, their restrictions of residence, their immunity from ignominious punishments, and the gradual encroachments of the imperial representatives. Whatever self-governing power was originally contained in it became at length diluted and neutralized, till no distinction remained between the organization of colonies and other provincial towns.

The converse of this took place in the history of the private rights of citizenship, which, being personal attributes of Roman citizens, followed them irrespective of residence.⁴ Such were the

¹ Savigny, i. 2.

² Savigny, l.c., referring to the case of Cicero, a citizen of Arpinum.

³ Zumpt de Quinquennialibus Municipiorum et Coloniarum. Savigny, on the contrary, considers them as distinct from, and in some respects superior to, the II. viri.

⁴ Lewis, ch. ii. p. 117.

rights of "connubium," "commercium," "mancipatio," "usucapio," "testamenti factio;" the acquisition of which, except the first, was easy to all but aliens,¹ but the adoption of which was not incumbent on any provincial towns but colonies. Here, instead of the colonies becoming assimilated to "municipia," the superior advantages of Roman law were so eagerly adopted, that at the period of the barbarian invasions no trace remained of any system of jurisprudence except that borrowed by other municipalities from the Roman colonies.

The liberty therefore, political and civil, of the colonial boroughs at their first foundation was as great as could be conceded by monarchs who had swallowed up in their own persons all the powers and privileges of the state. The prestige of superiority remains, when the qualities which justified it have ceased to operate: and thus the colonies retained an honorary precedence over the "municipia" throughout the period of the Empire,² and long after any distinction but that of origin remained.

Before the age of Constantine, a new class of colonies, resembling those which we have described in their purpose and local position, but broadly discriminated from them in all other respects, was introduced into some of the provinces. The decrease of population in Italy, and growing distaste for military service, induced Alexander Severus and many of his successors to plant settlements of barbarians under the name of "Limitanei," "Riparii," or (more generally) "Læti,"³ in the march lands threatened by the warlike frontier tribes. Large bodies of Frank auxiliaries were thus invited to occupy on a military tenure, and defend against their brethren, those tracts of Gaul which they afterwards overran and appropriated. To this period are to be referred many great lines of fortification and border strongholds still bearing under their Gothic superstructure the massive relics of Roman masonry; such as that which stretched parallel to Hadrian's wall, from the Tyne to Solway

¹ Smith's Dict. of Antiq., Art. "Civitas."

² In the earlier Roman history the municipia are mentioned before the colonies.

³ For the Lætic colonies my authorities are Palgrave, i. x. 352 sqq.; Gibbon II. xvii. (p. 38 sqq., Milman's Ed.); cf. Milman's note to Gibbon, ch. xxxviii. v. iii. 428, about the supposed colony of Limitanean Britons in Armorica.

Firth,¹ and the great chain of forts still frowning over the banks of the Rhine.

But the chief interest of the Lætic colonization arises from its connection with the feudal system; "the first rudiments" of which, according to Gibbon, were contained in the conditions of military service annexed first to the dotations of lands to the Roman veterans under the later Empire; secondly, and more certainly, to the assignations now made to barbarian allies. And though the analogy is defective, in that the relation thus contracted was to the state and not to an individual, the stringent obligation of public defence, and the strict entailment of the property to lineal heirs male, may perhaps have suggested the well-known limitations of feudal tenure. Meanwhile the rich plains of Champagne and Picardy, perhaps, too, the less cultivated district of Brittany,² were overspread by these dangerous vassals, who lived in separate communities under their own laws, and owing obedience only to their own chiefs; and groups of independent marchers, domiciled in the fairest territories of the empire, were the last representatives of Roman military colonies.

It may seem incredible, on a review of Imperial colonization, prosecuted so long, if not with brilliant success, yet with unfailing energy and resolution, that Roman influence could have been maintained efficiently at so great a distance from the capital, when Rome herself was distracted by faction, and only deterred from open rebellion by an overwhelming force of prætorian guards. Though often implicated in the party-strife between rival emperors, the colonies never conspired with the insurgent tribes against the majesty of Rome, or dared to assert their own independence. It is impossible to believe that the sense of filial duty was felt by them as it was by those of the good old times, whom the consuls reminded that "whatever duties children owed to their parents were owed by them to the commonwealth

¹ This wall was built by Sept. Severus. But in Britain the enrolment of barbarians began earlier than elsewhere.

² This rests on the doubtful evidence of a large British colony, planted in Armorica by Maximus. Palgrave, I. xi. 381.

of Rome.”¹ And yet the worst enemies of the empire might have received an answer no less triumphant than the famous taunt of Hanno, “*Ecquis Latini nominis defecit ad nos.*”² Gaul, Britain, Spain, and Africa, after the reactionary movements following their subjugation were over, were almost more thoroughly Roman in their outward aspect than Rome itself. For into the capital the influence of Grecian manners, and Egyptian religion, was able to penetrate; but the colonies continued to imbibe the pure spirit of Roman institutions when the fountain-head had long been grievously tainted.

It is not with the life of empires as it is with that of individuals, that approaching dissolution drives the vital power from the extremities and gathers it to the centre of the system. On the contrary, the appearance of foreign possessions and dependencies is often most dazzling and commanding when the parent government is tottering to decay. The distant suckers absorb the vigorous sap, for want of which the hollow trunk is withering. Thus it was with that vast frame of ecclesiastical administration developed from the same local centre as the great Roman empire, with which it exhibits in much of its history so mysterious a correspondence. It was not when Gregory I. was exercising in Rome and Italy a despotism truly paternal, sustaining the noblest character of a patriarch, wielding the power of the Greek Emperor, checking the Lombards by his vigour, superintending personally the smallest details of the Church; it was not then, nor even when Gregory VII. had reduced the German Emperor to abject submission, that the power of the Papacy was greatest in the most remote countries. Not till the nearest spectators discerned corruption and weakness through the veil of superhuman pretensions, till the petty ambition of a temporal prince exposed the Pope to a siege in his own capital, did the ablest monarch in Europe³ place himself in an attitude of dependence on the Court of Rome, which was imitated more frequently while its Italian influence was waning, and even when, for very security, it was removed to the dominions of a foreign prince. It was by the operation of the same law that the provincial organization of the Roman Empire was most

¹ Liv. xxvii. 9.

² Liv. xxiii. 12.

³ Henry II.

complete when its vital power was at the lowest ebb, and that the allegiance of the colonies, like that of the sentinel motionless amid the horrors of an eruption,¹ was sustained by a sort of mechanical cohesion, till they yielded passively, but without eagerness, to the advancing barbarians.

There cannot, however, be a more melancholy proof that the Imperial colonies were inefficient for many of those great ends for which human society was designed, than the fact that so long as they remained under the Romans they have no history. It is not only that, in the general decline of literature, events which in happier times would have been recorded, passed by unheeded. But there was no development, no progress, no movement, in their population; they were only maintained by new relays of inhabitants from Italy, and had no aspirations beyond their existing state. We that have seen a body of colonists less numerous than they, and placed in circumstances which taxed physical energy to the uttermost, rise in one century from infancy to maturity, and before the close of another launch into a splendid career of prosperity and power, may well marvel at the immobility of these bands of free emigrants. Even the Greek colonies speedily grew into sovereign states, exercising an independent right of peace and war, of coinage, and of jurisdiction, and often repaying, by a superiority in the commerce of literature and philosophy their obligations to the parent state. But the life of Roman colonies is a blank. Of their immediate influence, for example, on the native population we know almost nothing. The settlement of some seems to have corresponded with its technical designation,² and to have been attended with great violence and oppression; in other cases, the original injustice of the occupation was soon erased by the benefits of civilization imparted to the vanquished. It was the outrages and marauding habits of the colonists of Camalodunum (Colchester) which provoked the great insurrection of Boadicea;³ we hear, too, that on the foundation of Patras and Nicopolis by Augustus, the neighbouring districts were almost thrown out of

¹ "The skeletons of more than one sentinel were found at their posts in Pompeii."—*Last days of Pompeii*, bk. v. ch. 6, note.

² "Imponere coloniam."

³ *Tac. Ann.* xiv. 31.

cultivation by the absorption of the farmers and peasants into the newly-planted colony, the middle and lower classes of which they were intended to supply.¹ But there is no evidence of any other effects produced by the colonies on the conquered peoples than those inseparable from the circumstances of their foundation, and from the mere fact of their residence among a less regular society than their own. Of these, the most impressive instance is the entire disappearance of the Celtic language from the whole of Gaul, except Armorica; a result which cannot be produced by enactment, or even by the long-continued subjection of one race to another, but which must have been accomplished by the slow infiltration of the Roman element through the medium of colonies. Wales and Ireland have not lost the knowledge of their native tongue. Even in India the dialects of the country are studied by the conquerors; but a great part of Gaul and Spain had so early as Strabo's time² begun to adopt the Latin, and before they were again subdued, the transition both here and in the provinces North of the Danube was almost complete. In the Eastern provinces, on the contrary, those which retained the trace of a prior and nobler colonization, a colonization not founded on conquest,³ yet signalized by the entire and lasting ascendancy of the superior race, the Roman tongue became overpowered by the more penetrating language of Greece. To this remarkable contrast between the East and the West the ultimate partition of the empire is partially to be attributed, for, as it has been ingeniously observed, the "fracture took place at the junction of the two languages."⁴ The influence of the Greek language and civilization outlived the iron grasp of power; and it was the stubborn tenacity of Greek institutions, and not the legions of Rome, that was forced backward step by step by the victorious followers of Mahomet. Such a population had little to learn from their Roman conquerors. But that provinces united to each other, and to Rome,

¹ Finlay, *Greece under the Romans*, ch. i., sect. 8.

² Strabo, iii. 2; IV. i. 12. Gallia, Narbonensis, and Bætica, were the provinces which first became Romanized.

³ An exception must be made in the case of the original Ionian migration, which was certainly characterized by violence. Grote, *Hist. of Greece*, iii. 250 sqq.

Edinburgh Review, April, 1843.

by a common language, and long protected from the evils of war by submission to a common superior, should have exhibited in the course of centuries not only no amelioration, but even a tendency to impoverishment, and later, an increase of social inequality¹ is enough to stamp the Roman Empire as a power whose civilizing energy had been exhausted.

A like dearth of contemporary history bars all enquiry into the social state, the every-day life, of the colonial citizens. All is left to conjecture, or rather to uncertain inference from the nature of their institutions and the material evidences of their tastes and habits. From these it would appear that under a brilliant but hollow surface the state of society was scarcely less monotonous than that which lingered on beneath the tedious line of Indian or Egyptian dynasties. The impassable barriers opposed to all "ascending movement" by the system of Caste were hardly greater than the evils of predial servitude; and the separation of interests thereby engendered was paralleled by the total alienation of town and country and the tyranny of the former.² All the population enjoying any political rank was concentrated in towns, equally devoid of political and commercial activity; it was in these that the landed proprietors resided; it was these that were connected by those stupendous roads which traversed the Western coasts of Spain and Barbary, and the Eastern frontiers of Media and Assyria, the wastes of Hungary and Scythia, and the dreary plains enclosing the Red Sea.³ The character of these roads agrees with that of the buildings whose ruins yet mark the site of the Roman Colonies. They are all stamped, like the Egyptian sculpture and hieroglyphics, with the stern impress of despotic power; stately, massive, and colossal. The roads, as well as the colonies themselves, were instruments of government, expediting the march of Roman legions, and furnished with relays of horses for the exclusive use of imperial emissaries. The unbroken succession of their milestones, the bold and skilful arches of their bridges,

¹ Sir T. Stephen's Lectures, lect. i. p. 27.

² Newman's Contrasts of Ancient and Modern History, lect i. pp. 14, 21-22.

³ Antonini Itinerarium, as quoted in the *Edinburgh Review*. The regularly constructed roads in Britain alone, according to the same authority, extended over 2650 miles, in Italy over 13,500, and in the whole Empire over 38,390.

testify no regard to the convenience or the rights of a private citizen. They rather resemble that wonderful highway carried across the Alps by another pretender to Universal Empire; of which the true object was betrayed in the question of its designer, "When will the cannon be able to pass the mountain?" Nor was there in the interior of cities anything to relieve the lifeless inaction of the surrounding country. Architecture there was, chiefly of two kinds; the one solemn and majestic, the architecture of temples, triumphal arches, fortresses, and great public works, calculated to impress the minds of subjects with the omnipotence of their masters;¹ the other the architecture of luxury, baths, circuses, amphitheatres, country villas. But, notwithstanding the existence of corporate guilds, all that tests independent energy and prosperity in the middle classes is wanting, not only in architecture, but still more remarkably in literature. Gibbon observes with approbation² that of the great edifices scattered throughout the Empire "many were erected at private expense, and almost all were intended for public benefit." The same affectation of public spirit is visible in the "epideictic" character of the literature at the same epoch. But it is a melancholy reflection that the age of ostentatious munificence is not that of true liberty. It too often points to a want of employment for capital rendering the splendid purchase of royal or popular favour the most promising investment. Thus too the imperial patronage of the great schools at Treves, Lyons, Toulouse, or Marseilles, the encouragement given to learned professors, the elegant and courtly poetry of Ansonius, the panegyrics of Claudius Mamertinus, the meagre chronicles of Eutropius, the pedantic philology of Agritius,³ prove only that while the high interests which give birth to true poetry, philosophy, and history, were entirely wanting, the current events of the day were insufficient to furnish the materials of a popular and genial literature. Perhaps it is well for posterity that no minute account is left of men and manners in the last days of the Roman Empire. It is a kind of happy necessity which throws a veil over the harrowing mysteries of the sick chamber,

¹ Palgrave, I. x. 323.

² I. ii. 57.

³ Guizot, *Civil. in France*, lect. iv.

and suffers the ravings of delirium to perish in oblivion. And so in the extreme abasement of national life the line of history is often broken; the record of wickedness and sorrow finds no chronicler; we are spared an intimate acquaintance with scenes which cannot purify the affections or kindle the enthusiasm of younger generations.

Such was the condition of the imperial colonies when they were called upon to encounter the greatest crisis in the history of mankind. They were animated by none of those principles which enable men to sustain the most fearful trials; neither by the motives which develop the energies of a new people, nor by those which support the decrepitude of an old establishment; they had no hopes and no memories. Their past and their future were alike discouraging, for they were not their own, and felt not even in their ruin the glorious agony of patriotic despair. And as they displayed few signs of vigour and self-reliance, considered as single and distinct corporations, neither did they collectively possess any principle of combined action, any ties of nationality or interest by which they could have been grouped into federations. Unlike the British colonies in North America, they were never actuated by common sympathies, nor aspired to realize a common independence. It was for the advantage of Rome, and not for their own sakes, that they existed at all, and when she fell, they all fell also. For now the day had come to Rome and to mankind when the hold of despotism insensibly relaxed; and the throes of dissolution were aggravated by all those terrors that haunt the last hours of the tyrant. Imperial Rome was to be numbered with Nineveh and Babylon and Memphis and Carthage; and the sentence went forth written in no mystic characters, but in the ghastly tokens of devastation and carnage, that she was "weighed in the balances and found wanting." The affrighted colonies saw the change pass over the still and vast features of that giant frame now paralyzed by collapse. They felt that the great object which had filled their whole horizon was about to be swallowed up by an inevitable doom. Some of their own number were the first victims; and now, if ever, was the time for united and determined resistance; for rendering to Rome such aid as Tyre received from Carthage,

and as England would surely receive in the hour of peril from her innumerable dependencies. But there was no fellowship between the Roman colonies but the sad fellowship of simultaneous destruction. From the trackless deserts of Scythia and Tartary, tribes of monstrous and unearthly aspect, pressing forward those nearer hordes which had hitherto been held in check by gold or lands, precipitated themselves with them on the Roman Empire. The successive ravages of Italy by the Visigoths, Heruli, Alans, and Ostrogoths, the occupation of Gaul by the Visigoths, Burgundians, and Franks, the devastations of the Visigoths and Suevi in Spain, and of the Vandals both here and in Africa, above all, the utter desolation of all Central Europe by the awful march of Attila, were crowded into a period so small as to be often conceived under the single image of a deluge or a conflagration. But to those who witnessed the steady progress of havoc, those horrors so wild and strange that contemporary authors shrink from the description, the idea presented was that of repeated and crushing shocks, ending in ruin foreseen yet not to be averted.

Here it might seem that the history of the Roman colonies should be terminated. All that was Roman in them might have been expected to disappear, and their institutions to lie, like the buildings of Pompeii, entombed beneath the chaos of barbarism, almost as if the lava stream had actually passed over them. If in a measure they were spared this fate, and reserved for a speedier resurrection, it was owing to an agency hitherto regarded as purely moral, but which, like the clinging ivy, now proved the support of the stem around which it had twined itself. Amidst the worn-out forms and inanimate society of the Western Empire, the Christian Church of the fourth and fifth centuries alone possessed vitality and vigour. "It stood between the living and the dead," between the organism of the political community already dead, and the living but expiring spirit of individual men, still capable of freedom and virtue. It had striven, not altogether in vain, to breathe a soul into the immense framework of the Roman Empire, and to give some real unity to a system which till then had realized nothing but specious uniformity. Invested, after the conversion of Constan-

tine, with some authority, it had spread rapidly through the Empire, everywhere adapting itself to the existing mechanism of imperial administration, making the colonies, still the nucleus of Roman government, the basis of its operations, organizing its own hierarchy according to the established provincial and diocesan divisions, and, by introducing its ministers into the office of defensor, gaining a footing in the heart of cities. The barbarians found the Church active and influential, the real guardian of that vast mass of human beings who seemed to depend for their all on Rome. The concentration in the monasteries of all the learning that remained in the Western Empire, the revival of popular election in the bosom of the Church, the improvement of agriculture, the mitigation of poverty,¹ made the Church the most formidable, as it was the most beneficial, power in the Roman world. The barbarians embraced Christianity, and allied themselves with the Church, and to this alliance, humanly speaking, we owe almost all the treasures that were rescued from the wreck of the Empire. Not that the conquerors were insensible to a civilization, which to them must have seemed so great and marvellous; "the remains of Roman activity, the cities, roads, aqueducts, and amphitheatres, all that society so regular, so provident, and so varied in its fixedness,—these were the objects of their astonishment and admiration."² But, after all, it was the Church, the religion of the Roman Empire, that preserved to us the two other great legacies, which we have inherited from it, its law and its language. But for the Church, both might well have perished in the Dark Ages; religion alone "made a bridge, as it were, across the chaos, and has linked the two periods of ancient and modern civilization."³

The neglected children of Imperial Rome were destined to survive her fall. Nay, more. It was not the colonies of the East, which, still sheltered under the shadow of Constantinople, fell after a respite of two centuries into the hands of the gentler

¹ Comp. Sir J. Stephen, lect. i. The evils of serfdom and conscription had been materially checked by the interference of the Church.

² Guizot, *Civil. in France*, lect. x.

³ Hallam, *Middle Ages*, II. ch. ix. p. 355. Guizot adds royalty and the municipal system to the list of ideas derived by us from Rome; but these had been realized before, though on a smaller scale.

Saracens, but those of the West, exposed to the first rude violence of the Goths and Franks, that recovered the earliest from that sanguinary revolution to enter on a more brilliant career of political development and civilization. Their subsequent destiny belongs to another and more eventful page of history. Yet as we stand on the brink of a new order of things, and see on the one hand the fleeting forms of their government and institutions passing away from view, while on the other, the subtler principles contained in them rather as links in the great chain of humanity than as political communities are entering new phases of being, we are led to contemplate the higher law of which the fall of the Roman Empire furnishes so signal an illustration.

There are two great types of material or moral development. The nobler is that according to which organization is adapted to an end; nature or man is constantly striving to reach some high ideal; and the more perfect and infinite the ideal the grander the development. This is the law which operates in the more beautiful natural organisms, and the more generous political societies. The baser is that which consists in the repetition of some primary form, perpetually copied as it were in the production of each succeeding individual. It is this mode of development which stunts and distorts the progressive energies of man as well as of matter, and contains in it an inherent tendency to degenerate; since, while none can hope to surpass the original, many abnormal and monstrous formations are inevitably included in the countless degrees of conformity. This latter type of development was adopted by Rome in her public policy from a very early period. In her political and military system, and above all in her colonies, which partook of the nature of both, she discarded all high aspirations, and was content to deviate as little as possible from a prescribed model. She strove to preserve the form of her own unique but inflexible constitution long after the spirit of it had departed, and to perpetuate it in miniature throughout her vast dominions. Even the change of the Republic into the Empire, so opportune in the increased capacity for extended rule thereby afforded, was no revolution of principles. The august titles of consul, censor, and

tribune remained, when their several powers were centred in a single man, and so the same idea, and almost the same mode, of colonization was embraced by the petty township of Latium, and by the mistress of the civilized world.

It was not consistent with the designs of Providence that a despotism, relentless alike in its self-sacrifice and its self-aggrandizement, and embodying no capacity of progression or reform, should paralyze for ever the onward tendencies of European society. The impress of power was not that part of the Empire which was destined to be eternal. The true glories of the human race are endowed by its great Author with an immortal principle; the works of goodness cannot be wasted, and beauty enshrines itself in art for ever; but, happily for mankind, there is no perpetuity in power. It leaves but a transitory stamp, which, like a palimpsest, is soon obliterated by fresh characters. There was retributive justice in the dispensation by which those colonies, the instruments of tyranny and the signs of conquest, were made the nucleus of a peaceful self-development. Meantime, while the selfish aims of their founders were defeated, provision was made for the true interests of posterity; and all that was valuable in the Roman Empire, transmitted through the colonies whole and entire, has long since been incorporated into the social life of modern Europe.

PROMOTION BY MERIT IN RELATION TO GOVERNMENT AND EDUCATION.

1858.

THERE are certain questions which frequently occupy public attention, without inspiring a very deep interest, or pressing for an immediate solution. They are known to concern everybody; they cannot therefore be supposed to concern one more than another; and as they do not come to a crisis, they can be postponed, like the Chinese war, till more urgent affairs are settled. It would be well for them if they operated directly on the gains of some well-defined class or compact profession. For measures of that kind bring up with them a little whirlwind of petitions, obtain vigorous Parliamentary advocacy, and, wafted into success no less by futile reclamations than by the plaudits of triumph, take their place among the achievements of the session. It is otherwise with the greater problems of politics. No little faith in the ultimate ascendancy of calm judgment and reason is required of him who would plead a cause which labours under the double disadvantage, of being distasteful to a small but influential fraternity, and of appealing to interests too comprehensive to be popular.

Such is the real position of Promotion by Merit, a term by which I understand that principle according to which the honours of the State would, so far as is practicable, be conferred on the most capable, and an exclusive regard to ascertained merit would govern all promotions, properly so called, in the permanent branches of the public service. The three departments of it to which this system has been already partially applied are,

the Civil Service of this country, the Indian Civil Service, and the Scientific Corps of the Army. However much encumbered by vexed questions properly belonging to the narrower and more technical ground of competitive entrance-examinations, the first of these three careers offers the most familiar, if not the simplest, basis of discussion. Few will entertain a doubt that, once established there, competition, in some form or other, and the correlative rule of "Promotion by Merit," will ultimately be extended to the whole field of ordinary Patronage, and especially to that profession in which incompetence too often involves national disgrace.

Happily for the prospects of argument, the controversy, though centred round the higher Civil appointments, has chiefly turned on questions of principle; and it is on principle, on considerations higher than mere political convenience, that true advocates of merit will rather choose to rely. No other issue is material: for upon the practical problems of government, no less than of law or of engineering, it is perfectly easy to procure a professional opinion of the requisite bias. With those arguments which postulate the existence of a corrupt system we have no concern. The present discussion is on a prior question, whether this system should be tolerated at all; and if the theoretical superiority of Promotion by Merit be once clearly established, the principal obstacle to its practical introduction will have been removed.

Fortified with the recommendation of a "Committee of Inquiry into Public Offices," and a subsequent Order in Council, twice affirmed by Resolutions of the House of Commons, patronized (verbally at least) by two successive governments, and backed by an ample parade of authority and experience, competition, as a condition of entrance into the Civil Service at least, might seem to be placed beyond the reach of controversy. In fact, however, these repeated confirmations, like the recurring enactments in our early Statute book, do but attest the frequent breaches of the rule which they affect to establish. Even this partial anticipation of Promotion by Merit is at this moment in a very critical stage—a stage, however, peculiarly favourable for its discussion on its real merits. It lies, as it were, becalmed

between two seas, the original difficulty of forcing it upon public notice, and the final difficulty of procuring its general adoption. Its less sincere friends seem to be satisfied with its abstract recognition; its enemies, wiser in their generation, men who have been under a hotter fire, and know how small a proportion of shots penetrate the earthworks of passive indifference, calmly await the issue. Their motto is "*fortes pejoraque passi*," and they shake their heads at the indiscretion of those who seek to crush by discussion what should be left to the slow but sure operation of the *vis inertiae* and public indifference. They desire state-craft to remain as Lord Bacon would have left it: "Concerning Government, it is a part of knowledge, secret and retired, in both these respects in which things are deemed secret; for some things are secret, because they are hard to know, and some because they are not fit to utter."¹

There are plain indications that the last strongholds of Patronage will not be surrendered without a struggle. The animus which dictated Lord Ellenborough's premature declamations of July 19th and July 29th, sleeps lightly if it sleeps at all, and will certainly blaze forth again, when the conflict is found to be mortal; many view with alarm a principle against which the son of the great Reform Minister has solemnly protested;² and literary cowardice already throws a considerable portion of the press on that side which is least obnoxious to the reproach of "doctrinaire" prepossessions, and which, if beaten, knows far better how to retreat with grace and honour.

But the sufficient reason for the doubtful success of Promotion by Merit as a political doctrine, is the excessive caution and reserve with which it has hitherto been stated. Blue books and Parliamentary speeches, the medium through which such questions usually reach the public, breathe a tone of reticence, and circuitous insinuation, well calculated no doubt to recommend a subject to official experience, but little adapted to the popular taste. The greater prominence given to secondary than to primary reasons, the timid suggestion of obvious inferences,

¹ Advancement of Learning. Wisdom of Government.

² Lord Grey's Essay on the Reform of Parliament, ch. vi. "On the Exercise of Patronage under a Parliamentary Government."

and this not in the terms of common life but in their Parliamentary equivalents, the studied abstinence from all topics beyond the narrowest scope of the prescribed inquiry, the exclusion of the bare idea of organic change—all this is far from palatable to those who have no other interest than to be well served by their executive officers, and who more than half suspect that the “difficulty experienced by Mr. Hayter”¹ is a difficulty not of providing adequately for the public service, but of making it adequately subservient to the (so called) Liberal ministry. Even the Civil Service Commissioners in their recent Report are compelled to veil and muffle the force of their suggestions, toning down as it were their own convictions to the precise degree of jejunity and flatness which constitutes the family likeness of official documents. The same conventionalities have, with some exceptions,² been kept up in the debates of the House of Commons. As to the valuable repertory of opinions in the “Papers relating to the Reorganization of the Civil Service,” it is an idle parade of premisses undeveloped into conclusions. It is singular too that these veteran officials, while they readily launch out into general theories on education, respecting which their experience may well be supposed to be limited, are far more taciturn and meagre in their suggestions on those practical topics to which they have devoted their lives. Nor are their views, such as they are, recommended by any tolerable approach to unanimity. On the contrary, it will appear, from a few random instances, that they constitute a notable example of the difficulties under which special experience labours when it is invited to improve and refine upon the results of the common experience and reason of mankind.

The substitution of competition for patronage, according to Sir Thomas Redington, an enemy of the competitive system, “would relieve Members of Parliament and official men from a most disagreeable portion of their labours.”³ Very different is

¹ See two letters from Mr. Maclean to Mr. Maitland in the Appendix to the 3rd Report of Her Majesty’s Civil Service Commissioners, pp. 151–153.

² See Sir J. Graham’s Speech on this subject, as reported in the *Times* of July 31st, 1858.

³ Papers relating to the Reorganization of the Civil Service, p. 231. See too the reply of Lieut.-Col. Larcom, ib. p. 59.

the testimony of Sir J. Stephen, who declares that he "never yet served under any Secretary of State who did not, at least, appear to attach a very high interest indeed to the power of giving such places to his dependants and friends."¹ This less romantic view, more germane to frail human nature, is strongly adopted by most of the other objectors,² and assumes in Lord Grey's pamphlet the proportions of a constitutional obstacle.³ Again, on the "moral tone" of the present Civil Service, so confidently extolled by most of its supporters, Sir R. Bromley, an officer of no mean authority, has arrived at totally opposite results. He says, "The existing defect of the Civil Service is, in my opinion, *its want of that high moral tone* which is so essential in conducting the common affairs of life."⁴ Another question peculiarly within the sphere of official experience is that of the division of labour between intellectual and mechanical work. But though the recommendations of the Commissioners on this subject are supported by Mr. Booth,⁵ and characterized by Mr. Murdoch⁶ as "the first and most important step towards a reform of the Civil Service," they are condemned by Sir A. Y. Spearman⁷ as "injurious as well as unjust." Even the actual inducements held out by the Civil Service, as compared with other professions, are very differently estimated by those who ought to be good judges of its attractions. One gentleman⁸ who tells us it has been his "great good fortune to be the friend of several" of the ablest and most ambitious youths in the country, ridicules the notion that men with such abilities would be "insane enough to take them to such a market." Such too appears to be the opinion of Sir A. Y. Spearman and Messrs. Booth, Merivale, and Addington.⁹ But it is not the opinion of those who are better acquainted with the actual motives of young men entering life, nor of Sir John Lefevre, or Sir G. C. Lewis,¹⁰ the latter of whom candidly points out the fallacy of

¹ Papers, etc., p. 79.

² See for instance the remarks of Sir A. Y. Spearman, Papers, etc., p. 401.

³ Reform of Parliament, p. 179.

⁴ Papers, etc., p. 52.

⁵ Papers, etc., p. 129.

⁶ Papers, etc., p. 299.

⁷ Papers, etc., pp. 399, 400.

⁸ Mr. Waddington. See his remarks, Papers, etc., p. 385.

⁹ See Papers, etc., pp. 319, 397, 398, 134, 316, 350.

¹⁰ See Papers, etc., pp. 120, 121.

this objection to a scheme of which he is in some other respects the opponent.

When the masters of the craft are so little agreed on the least intricate and most practical questions, it is well that the subject should be considered by those, who, with less official experience, are not insensible to the signs of the times, and the public interests, who have less to bias their judgment, and, above all whose freedom of speech is under no other restrictions than are imposed by the real magnitude and importance of the principle to be established, and the respect due to some of its adversaries.

In the belief that in this obvious but neglected rule of Promotion by Merit we possess the means of working to more profitable results the inexhaustible mine of human energy now wasted by a system of monopoly; that public business of all kinds must be far more efficiently and economically transacted by men selected for their efficiency alone and furnished with specific motives to honourable exertion; that education might receive signal and most opportune assistance from the adoption of the same expedient; that the relations of public men will be purified by the voluntary abandonment of a questionable instrument of warfare, and by the consequent diminution of embarrassing importunities; and that out of these solid and tangible advantages will arise others, all the more real because not founded on clamorous wants or passing impulses, a healthier action of the whole body-politic, an increased sympathy of the people with their rulers; I shall endeavour to justify the wisdom of interfering with the present system, pointing out the few changes which seem of essential moment. I shall then attempt to meet the chief arguments hitherto used against these alterations; and, lastly, I shall advert to some remoter political and educational benefits which may be expected to spring out of a policy so just and disinterested.

I. It is perfectly undeniable that the confidence of the country in our civil as well as military authorities is seriously shaken. Loud expressions of discontent were indeed, perhaps, first heard in the Crimean War; but the expensive clumsiness of our administrative system had long been a received fact.

When Sir R. Peel preferred the present method of railway management, with all its grave disadvantages, to any scheme which would have placed it in the "torpid hands of Government,"¹ when Lord Lansdowne declared it to be "universally admitted, that Governments are the worst of cultivators, the worst of manufacturers, and the worst of traders,"² when the practice of exposing individual jobs in the public papers made the enormity of them more conspicuous, when Mr. Disraeli and Sir J. Graham expressed their conviction that a squabble for patronage had been for half a century, at least, the real obstacle to the re-construction of our Indian Empire,³ no one felt any surprise, still less any indignation, that the English Government should be subjected to such imputations. People looked till very recently on the grossest blundering and wastefulness almost as a matter of course—the necessary friction of the machinery—and trusted that Parliament would prevent any great catastrophe. Parliament itself is not free from blame. It too often suffers the interests of its leaders to prevail over those of the public, and enquiries into abuses are apt to remind us, of those actions, known to lawyers, in which the real matters in dispute are sacrificed to the costs. The House of Commons can dock a salary, starve a scheme of public improvement, bully a minister about the delay of Government transports, or the frauds of Government contractors, but against a system it is all but powerless. It suffered sums of money to be squandered under its own eyes on unsuccessful experiments in ventilation which would have been grudged to the most philanthropic objects; it did not and could not check the waste, through mal-administration alone, in the late war of capital which "would have sufficed for the execution of the chief sanitary improvements in all the cities and towns of the three kingdoms,"⁴ and when it interfered it selected the wrong victim. In short, the remedies which it applies fail to effect their purpose; and so will

¹ See the remarks of Mr. Chadwick. Papers, etc., p. 136.

² See the remarks of Mr. Cole. Papers, etc., p. 245.

³ Report of the Debate on the Government of India Bill.—*Times* of July 31, 1858.

⁴ Lecture on Open Competitive Examinations, by E. Chadwick, Esq., C.B. p. 4.

all others which are confined to placing restrictions on bad administrators, instead of providing good ones.

Aware of the peculiar difficulty of bringing to the test operations on so vast a scale as those of the executive Government, some more daring opponents of change affirm that in the course of recent investigations "no imputations were raised against the general efficiency of the establishment,"¹ and that upon the whole it "works well." Why of course it does. Every long-established system "works well" in this sense. Administration worked well when Sir R. Walpole acted on the principle that every man had his price; navigation worked well by dead-reckoning; locomotion worked well when coaches were advertised to reach London from Edinburgh, "God willing," in a fortnight; prison-discipline worked well before Howard, the treatment of small-pox before Jenner, spinning-wheels before Arkwright. We do not hope to convince the apologists of Patronage that it does not work well,—as well, that is as other "unproductive" methods of political agriculture; our humbler aim is to show that by the adoption of certain simple and obvious expedients, it may be made to work better, and that what is now a dead-weight may become a motive power. It is sufficient to add, that the gentlemen whose opinions are collected in the volume to which allusion has already been made, admit with scarcely an exception, that in the year 1854 (to adopt Mr. Wood's moderate expression), "the Civil Service was capable of considerable improvement." This is all that is necessary for our purpose; for, notwithstanding Lord Grey's apprehension, that the vote of the House of Commons in the session of 1857 "would probably cause the rest of the departments to follow the bad example already set by some of them,"² the recent Report of the Civil Service Commissioners shows that most of our public men have proved equal to the occasion, and have exhibited no rash eagerness to divest themselves of their patronage in compliance with those Resolutions.

If we are to credit the testimony of their friends, the anxiety of ministers about to make an appointment must be pitiable.

¹ See the letter of Mr. Arbuthnot. Papers, etc., p. 407.

² Reform of Parliament, p. 181, note.

One would imagine that, armed with the virtue of a Cato, they turn a deaf ear to the prayers of private connections, make a conscience, at least, of acquainting themselves with all the most promising youths within their knowledge, and smile with patriotic joy when they "discover real merit lurking under a timid or an uncouth exterior."¹ But what is the original of this picture? Some young fellow, whose exterior is as far as possible from being timid or uncouth, is not serious enough for the Church, hates the drudgery of the Law, and is rather too old for the Army. His uncle mentions him with a few words of commendation to his personal friend the Secretary for the — Department. The Secretary intimates by a pleasant nod at an evening party, or a postscript to a note of invitation from his wife, that all is right, and thereupon relieves himself of the duty of reading the heap of applications from less favoured quarters, all of which, however, have in an official sense been "considered." A few days afterwards the young public servant passes an examination, which, if no longer "such as a charity boy would smile at,"² would certainly not entitle him to an A.A. degree, and lounges into his office with prospects and aspirations to which the French "glory" and the English "duty" are equally wanting. Probably he is considered a very good fellow by his companions, and as a matter of course he gives satisfaction to his superiors (for the opposite sentiment has hardly a name in the official vocabulary), but few strangers go out from an interview with him without reflecting anew "with how little wisdom the world is governed." The advice of Don Quixote to the rustic governor of Baratania, will supply no inappropriate moral for his admonition. "All this I say, friend Sancho, that thou mayest not ascribe the favour done thee to thine own merit, but give thanks, first to heaven, which disposeth things so kindly; and in the next place, acknowledge with gratitude the inherent grandeur of the profession of knight-errantry."

But the visible failures of Patronage constitute but a small and secondary part of the motive for reform. It is not because it reduces to a minimum the beneficial working of Government,

¹ See the remarks of Mr. Waddington. *Papers, etc.*, p. 393.

² See the remarks of Mr. Spottiswoode. *Papers, etc.*, p. 58.

but because in so doing it deteriorates political morality and blunts the energies of all who are concerned with it, that its abolition is essential. A high sense of responsibility and jobbery, the idea of Patronage as a trust and the idea of it as a right over certain perquisites and "pieces of preferment," cannot co-exist even in the purest minds. Now few will deny that this latter idea prevails almost necessarily in the distribution of inferior offices. Foreigners may well wonder, as they do, at the indirectness of the means by which we compass the ends of Government, when they see that a great constitutional measure like the Reform Bill, and a position like that of Lord Chancellor, are not above suspicions of jobbery, a principle anarchical in its very nature, and which only fails to inspire disgust when it has sunk deep into national character. Even then it dares not declare itself, and has recourse to shifts of language, which the nobler motives of party-spirit or personal ambition would disdain.

Can those considerations which influence the exercise of Patronage when personal merit is passed over, interesting as they may be to the individual minister, be avowed before the public? Are not a large proportion of appointments dispensed by the Secretary of the Treasury, not, as has been asserted, to reward "zealous and faithful service," but, on the contrary, to secure the allegiance of wavering supporters, and are they not doled out in like manner by these high-minded representatives to those of their constituents on whom they can least depend? Is it honest to speak of this decorous bribery as a process of selection, and to pretend that it is superior to competitive examination as a means of ascertaining "moral character?" Of course we know that all this is said in a "Pickwickian sense," and that politicians of all parties laugh heartily over dinner tables at the notion that Mr. A. was appointed, or Mr. B. promoted for the reasons that passed muster so well in Parliament; but still the turn is served, and public attention is soon diverted. We cannot afford to be so good-humoured, and as no charge is brought against individuals, it is allowable to speak plainly; the more so as the argument against the introduction of a competitive system has been handled very coarsely on this

ground by opponents who as men of the world know the delicacy of the topic. The truth is, the presumption of a special regard to moral character in Government appointments is nothing else than a piece of political hypocrisy, such as no man could pass off in private society with a grave face, and which deceives no one but the public. If morality means honesty and its cognate virtues, doubtless these fortunate nominees share it with the vast majority of their countrymen; if it means anything more, I know no reason for supposing that it exists in any remarkable degree in those who owe their positions to patronage. They are for the most part just what we should expect to find persons, selected from the least industrious classes of society for no merit of their own, no better, and perhaps no worse, than their neighbours; though it must be confessed that no small part of the refuse of our public schools finds its way into the civil or military service, and hears with astonishment that it owes this distinction to a conscientious scrutiny of "moral character." Even as to good sense and business-like ability, it is really too gross an imposture on our memory to tell us that men whom their more industrious contemporaries beat at school, and respected for anything rather than their habits of application, who were draughted off before their education was complete, or else beaten again at the University, and who could not brace themselves up to an open profession, are conspicuous among their compeers for qualities peculiarly the result of mental discipline.

By what right is the public defrauded of the best materials that can be procured in open market, and supplied with an inferior article from the private manufactories of certain of its own employés? Granted that intimate personal acquaintance is the best of all guarantees, is it possible to apply this test generally or disinterestedly? Can nepotism, however refined, elicit abilities at all equal to those which fetch the highest price in other employments, or will men so chosen be even encouraged to develop their own slender capacities under a system which hardly recognizes the most glaring disparity of quality between services of equal duration? The proportion of the incompetent will of course be variously estimated, and it is easy to make vague assertions implying that they amount only to a small

percentage; but Sir J. Stephen speaks more definitely of the department with which he was so thoroughly conversant, and tells us that "*the majority* of its members in his time possessed only in a low degree, and some of them in a degree almost incredibly low, either the talents or the habits of men of business, or the industry, the zeal, or the knowledge required for the effective performance of their appropriate functions," and he adds that the men who composed this majority "were, without exception, men who had been appointed to gratify the political, and domestic, or the personal feelings of their patrons."¹

If therefore the charge preferred against the existing Civil Service were no more than this—that persons chosen and promoted irrespective of merit are less valuable instruments than might be obtained under improved methods, a *primâ facie* case has been shown. Experience, it is said, is the one essential, and this cannot be supplied by natural gifts, or even by a more stimulating system. If so, why are officials so frequently shifted to other departments before they have had time to learn their business? It is remarkable, too, that the higher offices of the state are distributed by a minister among his supporters with little apparent regard to the previous experience of each; and such is the unconscious homage paid to general ability, that even the more important posts of the Permanent Civil Service are often entrusted to men whose reputation has been acquired in open professions; a practice which even competition ought not entirely to supersede. It may be argued that, in the Civil Service at least, the changes introduced since 1854 supply an adequate remedy for most of these evils. It is the less necessary to meet this and similar assertions, because the inefficacy of "pass-examinations," or of pseudo-competitions between three, two, or even one selected candidate, combining as they do the vice of uncertainty with that of jobbery, have been ably exposed elsewhere.² Nor is it possible to devise reasons for insisting

¹ Papers, etc., p. 73. See the Statement of Mr. Cole, ib. p. 246.

² See especially Merit v. Patronage, Ridgway, Piccadilly; and the Third Report of Her Majesty's Civil Service Commissioners, pp. 15-24. From page xvi. of this Report, it appears that more than two-fifth of the candidates nominated for competition were below the standard, even of ordinary certificates.

upon a tolerably high minimum standard of fitness, which will not tell with redoubled force in favour of selecting the fittest agents that can be found. On the other hand, experience has failed to suggest any principle except competition, that natural and inveterate foe of jobbery, which can cope successfully with the evil, or open the public service of England to the millions of Englishmen. Without competition at entrance, Promotion by Merit would be worthless; without subsequent competition of a different kind it would be impossible, for merit is relative; but within the scope of competition there is abundant room for modifications, as various as the careers which invite emulation, or the forms in which merit can be displayed. The difficulty—and it is a real one—is so to apply these principles, as to work a thorough change without an undue disruption of anything but the indurated crust of the existing system.

II. Before entering on the consideration of any practical scheme, it is important clearly to distinguish "Promotion by Merit," a principle of universal application, from the more limited method of competition, and competition itself from the various plans of examination which occupy an undue amount of public attention. No objections of detail which can be made to these last are valid against competition in general, as a means of discriminating between man and man, still less against the duty of employing and rewarding the worthiest. Competition, it is to be feared, is identified in the minds of most people with a literary examination, conducted entirely on paper, designed to test the candidate's knowledge of certain given subjects, and resulting in the accurate registration of attainments according to a scale of marks. Such mechanical measurement is in fact the characteristic of examinations *when they are not competitive*, but analogous to those mock-inspections, which have proved so futile in the case of Army-Clothing. Selection by competition involves no great complications, nor indeed necessarily any examination at all. There is competition for instance of a very effective kind (however inapplicable to the Civil Service) for many educational situations, though the award is determined by the comparative weight of testimonials instead of the comparative merit of papers. Again, competition, even such as is proposed for the

Civil Service, does not exclude the strictest preliminary investigation into health and moral character. Insurance offices are not content with mere formal testimonies, but put very close and searching questions to the parties named as referees, and it would obviously be more practicable to insist upon these more delicate conditions, where there are no powerful patrons to be conciliated, and where rigorous justice is all but enforced by the rival interests of other claimants. But it is highly undesirable to mix up these considerations with the results of the examination, whatever be its nature, experience having proved the difficulty of striking a balance between elements so absolutely incommensurable. Nor is there any limit to the number or kind of tests which may be applied. We read in Herodotus of a tyrant of Sicyon, who disposed of his daughter's hand by an examination far more encyclopædic than those inflicted by the Civil Service Commissioners; nor are riding, military surveying, or practical seamanship, less capable of being thus estimated than historical or mathematical proficiency. No exception has in fact been taken on this ground to the examination of officers to the Royal Navy, or in the Merchant Service, professions which certainly demand capacity of the most practical kind.

What I venture to propose in reference to the Civil Service is, that there should be a yearly or half-yearly Government examination, open to every applicant below a certain age (and not only to such as are candidates for immediate Government employment), on production of a written recommendation from a clergyman or dissenting minister, or from the master of the school in which he has been educated. It should be adapted from time to time, after mature deliberation by a Board, uniting the widest educational experience, to the existing state of national education. The object of this examination would be specifically to ascertain the intellectual standing of the candidates with reference to the qualities that are most valuable in practical life. Those who are familiar with examinations will smile at the suspicious and dark surmises which disturb the fancy of some nervous officials on this subject; as if the operation were one of the greatest nicety and delicacy, demanding a

superhuman incorruptibility on the part of the examiners, and hardly to be guarded against unfair collusion on the part of the competitors. Indeed, one of the more eminent naïvely proposes, that "a curriculum, explanatory of the nature and extent of the examination the candidate would have to undergo, *but not containing the questions he would have to answer*, should be given to every candidate."¹ Many years after gas had been in use in all the cities and towns in England, it came into the mind of some one, that it might be applied to the lighting of Oxford Colleges; but there were not wanting those who recommended caution, and expressed their intention of waiting till they should see how it succeeded in — College. Such was the attitude of many persons towards Civil Service Competition, till a few experiments were tried with signal success under the Civil Service Commission: perhaps, however, it may still be reassuring to some to learn, that from the first no one connected with education, whose opinion has been published,² entertained the slightest doubt that it would be possible to find spacious examination-rooms, impartial examiners, and judicious tests of relative capacity. But this is not all. It may safely be asserted that, given adequate time and examiners of adequate skill, there is hardly a quality required in the transaction of business—whether vigour, readiness, address, judgment, accuracy, power of combination, memory, invention, presence of mind, good sense, or what may be called intellectual generalship—that cannot be weighed in an examination. I do not say that all this is ordinarily attempted; for in practice the time allowed is far too short, and the examiners, even if men of first-rate powers, far too much over-tasked; but that it may be done with such resources as Government can command, I am fully persuaded.

It will be necessary, in order to meet the varieties of English education, to give candidates the option of certain selected subjects, such as the two ancient languages, any two modern languages, mathematics, certain physical sciences, history,

¹ See the remarks of Sir B. Hawes. Papers, etc., p. 366.

² See on this subject Papers, etc., pp. 5, 7, 21, 32, 58, 87, 88; being the remarks of Sir John Lefevre, Professor Thompson, Dr. Graves, Mr. Temple, the Bishop of Calcutta, and Dr. Vaughan.

mental and moral philosophy. But it is of prime consequence that the larger part of the examination should be the same for all, and that in this part English composition, and a sound acquaintance with some great English authors, should hold a conspicuous place. Whether one or more of the collateral subjects should be allowed, is of very secondary importance. English is the language in which Englishmen think, and by no other standard can power of thought be so accurately gauged.

The results of this primary examination should be embodied in a list divided into as many classes as may appear desirable, but not arranged in the first instance in order of merit. The labour of assigning a distinctive place to each individual of so vast a body of applicants might be excessive, and the object of giving a definite standing to every aspirant for what in effect would be a public degree would be better attained by classification than by a minute discrimination of comparative proficiency. But the performances of those candidates who announce themselves as competitors for situations in the various Government offices should be preserved for the purpose of future reference.

An estimate having been made, as suggested by Sir C. Trevelyan and Sir S. Northcote,¹ of the probable number of vacancies in each office, all who have passed the general examination satisfactorily should be entitled to compete for a clerkship in any office they may choose. This special examination would of course vary according to the nature of the department, but it would be very mischievous to demand, as a preliminary, knowledge of that kind which can only be acquired effectually by practical training, and which would be nearly useless to an unsuccessful candidate. Political economy would be a better preparation for the Board of Trade, the history and languages of modern Europe for the Foreign Office, and Colonial history for the Colonial Office, than a clerk-like acquaintance with details and statistics. The final award would in each case be determined by the issue of the special examination taken together with the relative position of the competitors in the general examination, and here the necessity might arise of

¹ Report of the Committee of Inquiry on the Organization of the Permanent Civil Service.

recognizing a distinction of merit between candidates originally placed in the same class. But the same grand axiom should rule the working of both, or rather of all educational tests, general and special, that it is rather ability than knowledge, rather mastery than docility, rather judgment than textual accuracy, rather the resource which can handle new materials than the facility which acquaints itself with old ones, that make the true public servant, the man who can be trusted even beyond the weary beat of routine without the certainty of his failing, and failing too by line and rule, the man who cannot complacently see an army perish, because he discerns no vulnerable spot in the joints of his own official armour.

For this purpose I would strongly urge that a large proportion of both examinations should be conducted "*viva voce*." Many of the greatest difficulties, real and imaginary, would be overcome, if written answers were checked by an oral interrogation of sufficient length. It is by this means that "cram" is most easily distinguished from sound and well-digested knowledge, and knowledge itself from that intellectual force and grasp of mind, the very existence of which, as independent of special information, is ignored in the common arguments against competitive examinations. Indeed the confessed imperfections of this instrument, as a mere literary test, are such as contribute to its value in disappointing educational quackeries and eliciting the available strength of the faculties. The longer the time assigned to this important diagnosis, the less the risk of its being defeated by the timidity of some candidates (a danger greatly over-rated), and the more it will be assimilated to the personal communication which private employers find so valuable a preliminary to engaging a subordinate. In this stage the assistance of men experienced in the business of public offices will be very serviceable, and for every reason this class should be properly represented on the examining Board. They will easily detect the overworked and anxious brain, too sensitive for the rubs and drudgery of official life, and will sometimes discover, even among the most promising, men who judged by a more mechanical test must have succeeded, only to prove themselves "*capaces imperii nisi imperassent*."

But the soundest materials will soon rust and tarnish without the quickening influence of Promotion by Merit, a principle justly characterized by the Civil Service Commissioners as "necessarily complementary to the system of competitive examination;"¹ and it is gratifying to observe that the sentiments of existing Civil Servants on this point are more liberal than was anticipated.² Some indeed—and those the very persons who see no difficulty in a discriminative "selection" among youths personally unknown to their patrons—are appalled by the responsibility laid upon the Head of a Department when required to nominate for promotion one of those who have been working under his own superintendence, or at least under some officer immediately responsible to himself. Naval captains find no difficulty in selecting the smartest of their midshipmen to take charge of a prize; lawyers know which of their pupils can be entrusted with a case requiring skill and penetration; contractors are perfectly well acquainted with the capacities of individual workmen; even military commanders have been known to recommend officers for promotion out of the order of seniority. Nay more. Most men, and especially young men, engaged in any common career, have a very sincere appreciation of each other's talents, and would acquiesce in the principle of "*detur digniori*," which is respected even in the games of schoolboys, with far greater consistency than their more capacious superiors.

It is to be feared that the favour accorded to "Promotion by Merit" is partly due to an inadequate conception of its scope. Lord Grey, who in one place states that "none who are acquainted with the interior of our Public Departments, will have any difficulty in recognizing the superior efficiency of those in which merit has been allowed to have its proper weight over seniority in promotions,"³ declares in another passage that in most of the Public Offices "the rule that these promotions

¹ Third Report of Her Majesty's Civil Service Commissioners," p. 30. See also *Reform of Parliament*, p. 182.

² Compare the Report of the Committee of Inquiry on the Organization of the Permanent Civil Service, p. 19, with the opinions of Civil Servants contained in the same volume.

³ *Reform of Parliament*, p. 184.

should be strictly governed by a fair consideration of the respective claims of the several candidates, from seniority and merit, *is recognized in principle; nor is it often departed from in practice through undue favour or partiality.*"¹ Similar intimations might easily be culled from the observations of other professed supporters of Promotion by Merit, and suggest the ominous inference that, in their view, the system which is the ultimatum of our hopes does not greatly differ from that under the benign influence of which we live. What that system is, we learn, among others, from Mr. Wood. "The prevalent custom is to promote according to seniority, unless the unfitness of the senior be glaring, or the vacant office of such responsibility as to compel a selection." The motives which dictate this course are compendiously stated by Mr. Wood. "The temptation to promote by seniority is great. Seniority is matter of fact; merit is matter of opinion, and therefore implies the trouble of judging; the responsibility of making a choice; the risk of not making the best choice; and the odium of passing over persons who have been accustomed to consider that seniority gives them a claim to preference."² Mr. Romilly's testimony is yet more decisive. "I have been twelve years in a Government office, and no instance has occurred during that period of any one being found undeserving of promotion."³

Of the many schemes, having for their object to facilitate the introduction of Promotion by Merit in the Civil Service, the most tangible is that of "Sir Stafford Northcote and Sir C. Trevelyan."⁴ The principle of this is to divide the clerks in Government offices into two great classes, the inferior to be employed from the first in copying and other mechanical work, the superior on occupations which together with some experience of details require the exercise of higher mental qualities.⁵ Doubtless this would be a great step in the right direction, nor

¹ Reform of Parliament, p. 161

² Papers, etc., p. 305.

³ Papers, etc., p. 278.

⁴ Memorandum by Sir C. Trevelyan and Sir S. Northcote on the Division of Labour in Public Offices, between Intellectual and Mechanical Work, appended to the Papers relating to the Reorganization of the Civil Service.

⁵ See too the remarks of Mr. Lingen, Papers, etc., p. 105, of Major Graham, ib. p. 107, of Mr. Booth, ib. p. 128, and of Mr. Murdoch, ib. p. 299.

could such a distinction be felt as invidious, if, as Sir C. Trevelyan proposes, candidates themselves should elect between the two entrances to public employment, and if the subjects of examination should also be different. But this bisection of offices and duties, while it does not necessarily involve the adoption of Promotion by Merit within each class, is open to the objection that it scarcely gives sufficient weight to that undefinable trustworthiness, the joint result of ability and experience, which is best developed by the habit of dealing indiscriminately with every species of business that finds its way into a Department. What seems a preferable means of securing a genuine Promotion by Merit, of that kind which is rudely but happily expressed in the cry for "the right man in the right place," is to permit all public servants (unless incapacitated by misconduct or incompetence), to rise by a slow rotation, represented by a very gradual increase of salary, reserving as staff-appointments all those positions for which more than average qualifications are demanded. By this method, which has the further recommendation that it is equally applicable to the reform of the army, the ordinary remuneration of employes would keep pace with the slow growth of their experience, and would be subject to no arbitrary discretion, while greater opportunities of distinction and larger emoluments would be attached to duties of a higher order. Meanwhile, a real responsibility would be thrown on the working heads of departments for every *bonâ fide* promotion, a responsibility which once placed on this footing would be held in check, not only by publicity and the fear of exposure, but still more by the sense of justice among the fellows of the nominee. Probably general efficiency tested by experience would oftener constitute the ground of preference than marked aptitude for the vacant post; for varieties of talent are apt to be exaggerated, and great eminence is generally the result of great general capacity directed by circumstances into a particular channel.

It must be confessed that there is nothing very new or striking in the suggestion of such a combination of competitive examination and Promotion by Merit. The latter part, it may be said, is not unlike what has already been attempted in a few

offices ; while, as a whole, it may appear to some a pedantic scheme for giving strength and organization to a Service, which, so long as it does its work tolerably, it is more politic to leave in the hands of the Heads of Departments for the time being. But one thing is certain, that the proposed system would effectually throw open the Public Service, the object to which all others are subservient ; nor could any merely departmental reforms satisfy the public that the immemorial claims of patronage and seniority are to be finally renounced. It is but one practical illustration of a principle, which would remain to be matured and extended indefinitely. But the immediate benefits to be expected from it are nevertheless palpable. It would extinguish the chief sources of jobbery, and reduce governments to rely for support on moral sympathy instead of political almsgiving. Perhaps no one ministry could safely originate such a step. But the mendicants who would in that case attach themselves to some other patron, will be forced to betake themselves to an honest livelihood when all doors are closed against them. It would pour a current of fresh air through the close and stagnant atmosphere of the avenues to power, now only ventilated by occasional lateral openings. It would substitute for those who enter the service of their country with the listlessness of an assured social position, and often of a comfortable berth to fall back upon, men to whom the efficient discharge of their duties would be success in life, and who, owing their appointments to merit only, would hold them, not as a virtual freehold, but by the defeasible tenure of "good behaviour." Relieved from much mechanical drudgery, and arranged with reference to the various capacities of individuals, the higher branch of the Civil Service would no longer be proverbial for the waste of power,¹ and would contain moreover a reserve of knowledge on all subjects connected with Government, the want of which is now severely felt.² In a word, the whole machinery of Government could not fail to play more freely when the constant attrition of influences, foreign alike to the

¹ See the remarks of Sir R. Bromley. Papers, etc., p. 53, and of Mr. Romilly, ib. pp. 264 and 292.

² See Sir S. Northcote's Memorandum on the Division of Labour in Public Offices between Intellectual and Mechanical Work.

true interests of the governing and of the governed classes, should have been finally removed.

III. It is not surprising that the argument for patronage has taken an aggressive rather than a defensive form. Experienced strategists when conscious of a weak situation, throw out a cloud of skirmishers, but as soon as these are driven in, the enemy's position is easily carried. We may spare ourselves the encounter with such arguments as have done duty before against every salutary change, and acquired a kind of prescriptive right to be used on such occasions; just as ushers and black rods are known to be in attendance at court-ceremonials, without any special mention of their presence. Omitting these, the current objections may be classified as *educational*, *official*, or *political*.

Of the educational class of objections the characteristic is, that they are not put forward by persons practically conversant with education. It is difficult indeed to believe that doubts respecting the practicability of examinations were ever seriously entertained. But there is another difficulty which, to judge by the confidence with which it is paraded, is believed to be of a most formidable complexion, namely, that examinations fail to test many qualities which are valuable in the public service. "This," it has been aptly observed, "though true as a fact, is simply impudent as an objection; because it quietly implies that the plan of patronage has an advantage in this respect."¹ But the argument is in reality more absurd than it is here represented. For the favourable constructions of friends and relatives are but a flimsy safeguard compared with the positive testimony of disinterested parties to whom reference might otherwise be made. And we may confidently appeal to those who can speak from personal experience, whether those habits of mind which are almost inseparable from moral qualifications do not make themselves felt in examinations, and that, not only indirectly in the way so ably explained by Lord Macaulay,² but directly in the tone of the papers. If so, why cavil because

¹ Merit v. Patronage, p. 14.

² Report of the Committee on the Examination of Candidates for the Civil Service of the East India Company, November, 1854. See, too, the Speech of Sir J. Graham, on July 30, 1858.

some points of character are beyond human scrutiny, and possibly at the time of examination actually undeveloped? If I cannot satisfy myself respecting the temper of a servant, is that any reason why I should not ascertain whether he has the head for the place which he undertakes? Do not the biographies of successful generals perpetually astonish us with the amount of theoretical study accomplished by them early in life, and suggest the reflection, that in this consisted more of their strength than we are apt to imagine? Have not some of our best Indian officers been authors before they were warriors? "As if," (to quote Mr. Carlyle), "Thought, Power of Thinking, were not, at all times, in all places and situations of the world, precisely the thing that *was* wanted. The fatal man, is he not always the *unthinking*, the man who cannot think or see; but only grope and hallucinate, and *missee* the nature of the thing he works with? . . . He is the fatal man; unutterably fatal, put in the high places of men."¹

But we are not left to *à priori* reasoning on the subject. Testimony has been borne in Parliament, and by Sir J. Lawrence, to the practical success of the competitive system in India; and it would be easy to multiply evidence that of the limited competitions which occasionally take place in the Home Civil Service, "the result has been most satisfactory."²

A more genuine instinct inspires the fear openly expressed by some, that the *gentlemanlike* character of the service will suffer from the introduction of an educational standard. Times are changed since Jack Cade made education the test of gentility, and the Civil Service Commissioners could perhaps tell a story which would have led him to change his opinion. At all events, Mr. Booth argues on the very opposite presumption, which he strives to place on a moral basis. "The tendency of your system gradually to fill the Public Offices with the lower class of men, I consider one of the strongest objections to it. The lower you descend in the social scale, the less is the probability that the candidates for the Civil Service will possess those moral quali-

¹ Heroes and Hero-worship, p. 302.

² See the statement of Mr. Wood, Papers, etc., p. 306, and the Report of the Committee of Inquiry, p. 14.

fications which I have already insisted on as being more important than the intellectual ones in the practical business of official life.”¹ Similar opinions are expressed by several other public servants.² Here is an issue which will probably be determined differently by the special experience of each, and according as he has more of the Cavalier or of the Roundhead in his composition. I shall not shrink from accepting it, and stating my conviction that the qualities referred to will more frequently be found in the classes below the highest, the classes of which Cromwell’s armies were composed, and that those who have from childhood witnessed in their parents the sterling and homely virtues so characteristic of the commercial and professional ranks, are better prepared than their social superiors for labouring in what the enemies of competition take care to assure us is “an obscurity as profound as it is unavoidable.”³ Nor will it, I believe, be found that this vulgar jealousy is strongest among the historical names of our aristocracy, but rather in those who ignobly prefer the coronet which they wear to the merit by which it was won, “damn with faint praise” him who is struggling up the ascent which it is their own or their ancestor’s best credit to have surmounted,

“View him with scornful yet with envious eyes,
And hate for arts which caused themselves to rise.”

A greater general than the partisans of the Army Purchase System, a greater statesman than those who record their protest against admitting all classes of Englishmen to the service of the state, thus instructed his recruiting officers:—“I beseech you be careful what captains of horse you choose, what men be mounted; a few honest men are better than numbers. If you choose godly honest men to be captains of horse, honest men will follow them, and they will be careful to mount such. I had rather have a plain russet-coated captain that knows what he fights for, and loves what he knows, than what you call a gentleman and is nothing else. But I honour a gentleman that is so

¹ Papers, etc., p. 133. See, too, p. 131.

² For instance, Sir T. Redington, and Mr. Romilly; Papers, etc., pp. 230, 291.

³ Sir J. Stephen. Papers, etc., p. 75.

indeed.”¹ There is no reason to suppose that in the army so organized, “conduct unbecoming an officer and a gentleman” was more common, or more loosely constructed, than in our own.

It is true that Lord Ellenborough pretends; that a test, of which it is the stock reproach that it is merely intellectual, will exclude from appointments “all that great class of persons having a mediocrity of fortune, but of the highest and most cultivated intellect.”² Against “cram” he presumes that examiners are defenceless, and superior facilities for purchasing “cram” are possessed by “the class which lives by buying and selling.” Doubtless therefore we shall find that successful competitors in examinations belong to the wealthiest order of society, that Oxford first class men are the sons of men who negotiate Government loans, and a Cambridge senior wrangler the Rothschild of his year. Perhaps a more preposterous notion never entered the head of a nobleman, a member too of a party which maintains a high property qualification avowedly as a security for independence and virtue. Indeed, it is paying patronage an undeserved compliment to treat it as if it represented the claims of birth rather than of fortune. Wealth holds the key of aristocratic favours, and is the successful candidate for prizes more precious than lucrative sinecures, prizes for which personal qualities of the highest order might compete in vain. It is not to the parvenu but to the poor man, not to those who “buy and sell,” but to those who know not how to buy and sell patronage, that the door of advancement is ordinarily closed.

But to return to the question of “character.” The valuable testimony of Mr. Jowett,³ that in “more than nineteen cases out of twenty, men of attainments are also men of character,” is confirmed in a marked manner by men of the highest educational standing, by Professor Thompson,⁴ the Dean of Christ Church,⁵ Dr. Graves,⁶ Mr. Temple,⁷ and the Bishops of London⁸ and

¹ Cromwell's Letters and Speeches, vol. i. p. 224 (3rd ed.).

² Speech in the House of Lords, as reported in the *Times*, Friday, July 30, 1858. The same argument has been used with more reserve by Mr. M. Milnes.

³ Letter, appended to Papers, etc.

⁴ Papers, etc., p. 9.

⁷ *Ib.* p. 32.

⁵ *Ib.* p. 13.

Ib. p. 44.

⁸ *Ib.* p. 28.

Calcutta.¹ The first of these gentlemen adds, "Certainly my own experience as Tutor of Trinity did not lead me to the conclusion that the aristocracy enjoys any monopoly of right feeling and delicate moral perception." Sir R. Bromley goes further. "The improvement," he says, "in the education of public employés will, I firmly believe, introduce a more gentlemanly and independent class of men in all the departments of Government." And two observers so acute, yet so dissimilar, as Dr. Vaughan² and Mr. Mill,³ concur in the belief that the youth of the higher classes know well how to exert themselves when put on their mettle, and will amply hold their own in the proposed contest.

This dread of intellect in any but one class, this restless impatience of independent thought and action, is nothing but a huge anachronism. When the despot Gelon made up his mind "that the Demos was a most unpleasant associate,"⁴ his interests and theirs were at least distinct. When Philip de Comines sneered at the burghers of Ghent as "brutes and townsmen," and chuckled over the superior finesse through which his master took advantage of them,⁵ he expressed the genuine sentiments of a feudal courtier. But when Lord Ellenborough declares, that "he had at all times feared the introduction of competitive examination as the most dangerous and democratic of all modern innovations," and that "its practical tendency was to substitute persons of inferior education *and position* for the men who had hitherto led our armies to victory and conducted the affairs of the state,"⁶ he forgets the age in which he lives, and raises a battle-cry which no longer excites the evil passions to which it appeals.

So high is Lord Grey's estimate of the allurements of the Civil Service, that he fears lest the health of our youth should be affected by over training, and government should pass into the hands of exhausted and spiritless bookworms,⁷ (as if excessive study were the most active bane of youthful constitutions). Yet he, and most of those who espouse the same side, dwell with

¹ Papers, etc., p. 59.

² *Ib.* p. 91.

³ *Ib.* p. 94.

⁴ Herod. VI. 156.

⁵ Memoirs, bk. v. ch. xvi.

⁶ Speech, July 29, 1858.

⁷ Reform of Parliament, p. 176.

amusing earnestness on the insignificance of the honours and emoluments attainable in this career, and condescend to plead that their system has no place for superior talents. They have not learned in vain the adage "*Cantabit vacuus coram latrone viator,*" but miser-like, after pitifully disparaging the value of their hoards, cannot refrain, even before the highwaymen are well out of sight, from hugging and gloating over them. When the object is to deter able men from entering the public service, its prizes are described as beneath their notice; when the praises of the existing staff are to be sounded, it is affirmed to have included in its ranks a full share of cleverness and energy.¹ The only way of determining what class of men it can attract is to throw it open. If the work be so mechanical, and the salary so low, as to disgust the promising and ambitious, they will soon discover it, and things will return to their original level. But then, if we are really to treat Government employment as the "parish-work" of intellectual pauperism, why not go further and substitute for the present gentlemanlike clerks a less expensive and (socially) inferior body? Perhaps, however, it may turn out that instruments of a finer temper will prove equal to the execution of work which now either falls entirely on the Heads of Departments or is not done at all.

A very fundamental objection of the official class is the supposed difficulty of governing with so heterogeneous a body of subalterns. The chiefs, it is alleged, will cease to be responsible for the acts of persons thus forced upon them, and misunderstanding and jealousy will spring up among the juniors. This of course supposes, that under the present system Heads of Departments do in fact appoint their own subordinates, as a Commander-in-chief appoints his aide-de-camps, or as the whole body of American officials is changed on the election of a President. But what is the fact? Sir G. C. Lewis states it concisely.² "The appointments of clerkships in the Government Offices are made in two manners; where the office is under a political head, the appointment is in general made by the Head of the Department; where it is not under a political head, the appointment is in general made by the Prime Minister, acting

¹ Reform of Parliament, p. 169.

Papers, etc., p. 112.

through the Parliamentary Secretary of the Treasury. The numerous appointments of the subordinate officers of the Inland Revenue and Customs Departments are also made in the latter manner." And Lord Grey, apologizing for the defective working of Government offices, says that it ought to be borne in mind that "the head of a public department is compelled to carry on its duties by the aid of men in the selection of whom he has generally had no voice, and whom he cannot remove except for some flagrant misconduct."¹ In other words, the presumed intimate connection between chiefs and subordinates is an absolute nullity, so far as Permanent Heads are concerned; while Ministers work harmoniously enough with materials provided by their political adversaries, and in a very large proportion of cases by a person who has not even a present interest in the well-being of the Department.²

It is likely, moreover, that the *esprit de corps* and good fellowship of a picked body, if this be desirable, will be less than that of a "fortuitous concurrence" of nominees? Without insisting on the alleged instances of employés, who have informed their superiors that they were "not put into the Service by their patrons to work,"³ will the Head of a Department, himself let us hope a man of abilities suited to his position, find it easier to deal with the representatives of competition or of nomination? Besides, even if they were as free to select their own instruments, as we now see that they are not, it does not follow that freedom of choice, so trustworthy a regulator where men have only to consult their own individual interests, is equally efficacious in protecting those of the public. Producers are not the fittest persons to negotiate on behalf of consumers. Much indeed has been said of the "responsibility" of public men for such appointments, and of the constraining force of public opinion.⁴ More patient observers regard this boasted "responsibility" as a pleasant fiction. It operates, feebly perhaps, but still in some degree, in that higher exercise of

¹ Reform of Parliament, p. 166.

² See the remarks of Col. Laroom, Papers, etc., p. 70.

³ Sir R. Bromley. Papers, etc., p. 54.

⁴ See especially Lord Grey's remarks. Reform of Parliament, p. 196.

patronage, on which the eyes of men are fixed, Bishoprics, Judgeships, Secretaryships of State, great military commands. But what passes in lower regions of Government is shrouded from public observation, and if ever a piece of negligence or blundering does creep out, the generous sentiment which watches over private character, and presumes everything in favour of those who cannot speak for themselves, is turned to most unwarrantable account. If each one of the many thousand Government employés were attacked in turn, it would be proved in detail with all the airs of complacent laudation of the absent, that each was a model of self-sacrificing devotion; indeed, the aggregate of testimonies would soon place the public service far above the élite of open careers. For a very small skill in Parliamentary tactics suffices to turn away that portion of public indignation, which depends on Parliamentary exposures, from the "illustrious accused," and to fix it on the unknown accuser.

I have already noticed the fallacy of supposing that Promotion by Merit will create jealousy. It is not discriminating justice, but caprice,¹ which irritates, nor should the sensibilities of mediocrity be the object of our undivided solicitude. What stirs the ire of Hamlet is

"The insolence of office, and the spurns
That patient merit of the unworthy takes."

But the sympathies of officialism lie in a different direction, and are not inaptly embodied in the popular story which attributes the Chinese insurrection to the chagrin of a plucked candidate.

One word as to the opinion that long and faithful service is most properly rewarded by granting Government appointments to sons and relatives. There is something graceful, and congenial to the spirit of Family Government, in such a method of remuneration. But misgovernment and inefficiency is too high a price to pay for the indulgence of this domestic sentiment, and if public servants are at present inadequately rewarded, a more economical, though less delicate, remedy may be applied in the shape of an increase of salary, than by founding what, if left to

¹ See Lord Goderich's speech at Leeds, September 28, 1858.

itself, would become a bureaucracy of the worst kind—a bureaucracy of caste.

Greater respect is due to the political objections which appear to many, and especially to Lord Grey, insuperable; for these objections rest on a comprehensive view of our system of administration, and are supported by great political experience. They may be resolved into two, That to carry on Parliamentary Government, such as our own, without Patronage, is at once unconstitutional and impracticable, and, That it would strengthen to a dangerous extent the bureaucratic element.

Those who are acquainted with the strange accidents and irregularities which determined the growth of our Constitution should be slow to brand any salutary change as *unconstitutional*. It is the boast of this unique system that it is formed on no preconceived theory, but owes all the abnormal perfections of its structure to the exigencies of suggestive ages. It would be difficult to devise a reasonable reform which should conflict with the fundamental principles of our Constitution. But, whatever the Constitution may be, the Civil Service, as it now exists, is scarcely to be called a part of it. From the time when all public business was transacted by "Courts," to the disputes respecting administration in the reigns of William III. and Anne, and from thence to the important changes introduced into the Departments but thirty years ago, the organization of the Executive has been repeatedly called in question by Parliament, and occasionally subjected to somewhat arbitrary restrictions. It was a much greater violation of constitutional principles to exclude all officers of the Crown from the House of Commons, than to transfer the selection of junior clerks, not to some antagonistic interest in the state, but to an impartial Board to be nominated by the Crown, and bound to decide on merits alone. Yet the former was not only the object of the two Place Bills of 1692 and 1693, which all but passed into law,¹ but actually found its way into the Act of Settlement;² and a modification of it, obliging all persons accepting such office to vacate their seats, is

¹ See Lord Macaulay's remarks on the provisions of these two Bills. Hist. of England, vol. iv. pp. 339-342, and 479.

² Hallam's Const. Hist. vol. iii. p. 187.

still part of the Law of England.¹ It is not too much to say that appointments such as those contemplated in schemes of Civil Service Reform are not recognized by the Constitution, having sprung up from the greater complexity of administrative functions in very recent times. But even if they were, let us not shrink from reforming them. There is a way of speaking, as if every little eccentricity in our institutions were vitally bound up with the national existence, as sacred as Magna Charta, and not to be touched without bringing down the Constitution in ruins. The native features of English character should indeed be studied and respected, but to treat the privileges of vestries or the prerogatives of the parish-constable with the like tenderness, were absurd in a high degree. There is nothing peculiarly venerable in our existing Civil Service. It is no picturesque castle ivied over with the associations of centuries, but a staring eighteenth-century mansion, to which a little diversity of outline would be a positive benefit. Let us study the growth of the system for instruction as to its nature and relation to the general economy of the State. But let us shun above all the pedantry which would conserve artificially the continuity of history, the affectation of making a Providence of ourselves, by preferring conformity with an imaginary type, or an imaginary law of development, to the supply of ascertained wants, and the cure of ascertained evils. Viewed in this light, a larger permanent concentration of ability and knowledge may perhaps appear to be precisely the thing required to give consistency and weight to well-considered measures amid the confusion of shifting parties.

When Patronage is said to be essential to Government,² it can only mean that no ministry could hope to keep a party together on the basis of moral confidence, while their adversaries are able to promise more substantial *largesse*. The remedy is, of course, to place both on an equality in this respect, as to such places as fall within the scope of Civil Service Reform. But this low view of political motives is indignantly repudiated by old civil servants, and is strangely inconsistent with the assertion, that

¹ Hallam's Const. Hist. vol. iii. p. 189.

² Lord Grey's Reform of Parliament, chapter on the Exercise of Patronage under a Parliamentary Government.

the present mode of "selection" does actually involve a comprehensive view of comparative qualifications. It is also self-destructive as an argument. Because human nature is liable to be swayed by certain temptations, this is no reason for multiplying these temptations in a fearful proportion to those considerations of conscience and public utility, which in the absence of such inducements have at least some weight. In the stern language of Mr. Hallam, "men of sordid and venal character always rejoice to generalize so convenient a maxim as the non-existence of public virtue;"¹ and since Patronage, without elevation of political character, fails more and more to rally parties, let it be tried what lofty political aims can do without Patronage.

There can be no doubt that what we are fortunately obliged to designate by a French name as "bureaucracy," has of late made some strides. Timid persons lament that the boasted independence of the Englishman is being daily curtailed *pari passu* with the clearing of forests and the enclosure of commons. It is urged that the income of an honest yeoman is now assessed by an inquisitorial body, against whom he has no available appeal; that his children are vaccinated against his will; that his land may be arbitrarily sold (at an immense profit) to a railway company; that his property is protected, in spite of his remonstrances, by a body of county police, and his health by a General Board; that when he directs to his "lawyer" in town, he is obliged to add the letter of a district; and that—worst of all—there are dark and distant rumours of compulsory education. And with these sad misgivings is mingled the suspicion, that it is somehow intended to leave mediocrity and plain sense no standing-room in the world, but to reduce it between mechanics' institutes and examiners to the melancholy condition of the unwarlike Britons. "The barbarians, on the one hand, chase us into the sea; the sea, on the other, throws us back upon the barbarians."

Now, passing over the fact that clerical preferment has always been chiefly in private hands, and that the higher branch of the legal profession is fast becoming an appanage of the lower, let it be conceded that the tendency, denounced equally

¹ Hallam's Const. Hist., vol. iii. p. 256.

by MM. de Tocqueville and Montalembert,¹ to create an inordinate thirst for Government employment is a real evil, and one to which a very advanced civilization is peculiarly prone. But in the first place, there is in England a concurrence of decentralizing agencies, such as our Parliamentary institutions themselves, the freedom of our press, the openness (so far as Government is concerned) of our professions, and the growing influence of local interests (not to speak of the tough Anglo-Saxon spirit), eminently calculated to neutralize this danger. Those who clamour for "A. the resident candidate," and placard streets with "Vote for neighbour B.," are not the obsequious tools of imperial policy. Secondly, there is a certain confusion of ideas attaching to the words "centralization" and "bureaucracy," as if the action of a body located in the metropolis must necessarily be coercive, or as if weak administration somehow contributed to the strength of the country. The notion of a restless, meddling, all-directing central power, ever interfering by passports and gens-d'armes, is odious; yet the central power may act very beneficially in providing facilities for the generalization of local results, in giving encouragement to efforts which must otherwise be stifled, and in introducing that principle of unity without which local energies would clash and work to waste. Enlightened men would, and do, recognize the delicacy of the problem, and one of the wisest promoters of the great educational experiment carried out under the Privy Council expressly advocates an appeal to the energies of individual parents.² For, lastly, it is a profound error to seek security in weakness, and to argue as if the importation of *independent* ability into a system could operate so as to strengthen its mischievous and oppressive tendencies. On the contrary, the first expedient of Jesuitical organization is to crush this very spirit. The proper antidote of "Red Tape," which is nothing but the stationary element systematized, the "precedent-law" of administration, lies in the ability of individuals. Those judges whose capacity and reach of intellect is

¹ Democracy in America, vol. iv., ch. 20, p. 160; and Political Future of England, sect. vi

² Mr. Temple. See Oxford Essays for 1856, pp. 258-260; compare also the Remarks of Mr. Lingens, Papers, etc., pp. 98-105.

the greatest, are least the slaves of the technical system which they administer, and the transfer of civil preferment to strong hands would make a Circumlocution Office impossible.

IV. Very different anticipations have been formed as to the amount of effect likely to be produced by the establishment of Promotion by Merit; and while some indulge in apprehensions of social revolution, others are led to wonder that a theory of scholastic aspect, and admitted to be *completely* applicable only to the subordinate posts in certain departments of the public service, should be taken up by such statesmen as Mr. Gladstone, Lord J. Russell, and Sir J. Graham, should receive the adhesion of Sir J. Lawrence,¹ and should be eulogised by Lord Stanley as destined to prove itself "eventually stronger than all Governments and all Parliaments, superior in short, to all the influences which can be brought to bear against it."² Perhaps it is that the one class look to the immediate effect on administration, regarded as a perfectly isolated province of public affairs, the other to the more remote consequences. There is also a sort of radical disbelief in any real superiority of man over man, which indisposes some to place any confidence in schemes which after all can suggest no substitute for human agency. I admit that such opinions have too much apparent foundation, and that if no greater result could be produced by a change of principle than by a change of ministers, it would be vain indeed to make it. But I apprehend that an improvement in this respect would be one of the earliest of the less direct benefits to be derived from "Promotion by Merit."

Does the nation know its own best men? Presuming that natural capacity is at least one of the qualifications for governing, and is worthy to be mentioned together with birth, wealth, and connections, is there the slightest probability that under the present system any large proportion of such capacity will come to our knowledge? Are we to suppose that by a happy necessity that score or two of gentlemen who rise to eminence in public life are truly the choicest products of the island? Or that, making every allowance for the thousand distracting influ-

¹ See the extract from his letter in the *Times* of July 8, 1858.

² Speech on the Government of India Bill, July 30, 1858.

ences of interest in all its tyrannical forms, constituencies and statesmen would not sometimes be glad to bring forward young men of real promise, if they did but know them? Certainly the exaggerated lamentations over departed greatness and the mediocrity of intellect in modern Parliaments, as well as the extravagant praises often won by persons of second-rate calibre, would lead to such a supposition. As it is, the public and public men, especially in peaceful times, have and must have a very inadequate conception of the quantity of talent to be found among the rising generation. In a country so favourable to rapid development as the India of a century ago, the genius of a Clive could scarcely be hid, and the spirit of a Napoleon will not fail to be felt in the crisis of a revolution. But the ungenerous argument that energy can triumph over any obstacles, and must ultimately make itself known, may be pushed much too far in less turbulent epochs. For ambition perhaps it is as well that it should be so; but for us it is not so. "If," as Sydney Smith tells us,¹ "it is of great importance to a country that there should be as many understandings as possible actively employed within it"—a result to which Promotion by Merit will greatly contribute—it must be a wise policy to distinguish these from the crowd, and to furnish the country with a list of able and willing aspirants. Lord Grey himself expresses a regret that transfers from permanent to political offices are not more frequent.² Competition would infallibly pave the way for this; and if, as the Civil Service Commissioners testify, even unsuccessful competitors are sometimes rewarded with other appointments, Ministers might possibly be found who would have some regard to merit thus ascertained in the choice of private secretaries or junior Commissioners. At all events previous service in a Government office would cease to weigh against applicants for private employment, while an additional means of discrimination would be introduced, to the want of which, rather than to the wilful neglect of superior claims, the predominance of interest over merit in the race of life is generally due.

May we not look further? It would be indeed a proud

¹ Essay on Female Education.

² Reform of Parliament, p. 172, note.

testimony to the worth of the competitive principle, if it should be the means of discovering from time to time a truly great man,—one of those rare beings who lie buried under the superincumbent mass of our artificial society, till we have come to doubt their very existence, and to feel almost happier without them. Genius has owed much to individual discernment; much also to the anticipation of posthumous justice; and later generations of Englishmen know well how to deck the sepulchres of those whom their fathers neglected or persecuted. But the English nation, acting through its Government, that patron whose power of rewarding is infinite, and whose rewards bless them that give far more than him that receives, rarely stoops to bring forward abilities such as wiser kings delight to honour. “The hour,” we are told, “will bring the man.” But the hour often comes, and finds the man wanting; the “*fortuna Populi Romani*” brought them no deliverer from the barbarian invasions; the French monarchy found no champion when a few shots would have saved it from destruction. Junctures sometimes occur in the history of nations, which baffle the adroitness and conduct that suffice for ordinary transactions. An experience higher than mere expertness, a penetration beyond that of a practised eye, a wisdom above shrewdness, is urgently demanded. Then Solon and Thales are summoned from their retirement, and Archimedes from his studio, and Gregory from his cloister, and Cromwell from his grazing-farm, and Franklin from his printing-office; and still when the pass is over men talk on about the sufficiency of practical talents, and the folly of expecting too much from human nature, and the danger of trusting state affairs to political adventurers.—As if the adventuring spirit were not directly caused by the difficulties thrown in the way of genius, and the gauntlets which it is made to run. M. de Montalembert has reminded us in wise and eloquent words,¹ “that there are two democracies, the one acknowledging all legitimate superiorities, the other the enemy of all that is lasting, of all that is solid, of all that resists, and of all that increases and improves.” But it is equally true that there are two aristocracies, the one the aristocracy of Plato and Aristotle,

¹ Political Future of England, sect. iii.

of Cicero and of Burke, ever ready to welcome into its ranks the possessors of that virtue and inward strength which constituted its own title in its first and noblest stage, the other the narrow and jealous aristocracy of prescriptive rights and artificial distinctions, dreading the virtues of its inferiors rather than their vices, and sacrificing to a blind hope of "finality" in vain jettisons of cargo more than would have sufficed to render the vessel seaworthy. "The true question," as M. de Montalembert elsewhere states it (since an oligarchy we must have), "is whether the governing oligarchy is ephemeral or durable, stupid or intelligent, oppressive or liberal, *and above all, whether it is accessible or inaccessible to the legitimate exertions of honour, conscience, and capacity.*"¹

It is common to treat the principle of "*detur digniori*," as if it were something quite new and untried. "It is, at least," urges Sir J. Stephen, "a perfect novelty. It is a rule never hitherto enforced in any commonwealth except that of Utopia. It does not prevail in the legal, or medical, or sacerdotal, or naval, or military, or mercantile professions. It is unknown to the great commercial and municipal corporations among us."² It might be replied, that its imperfect recognition in these various careers, most of which, however, are competitive in their very nature and protected in some degree by self-interest against corruption and favouritism, is a most fruitful source of disgrace and failure, a fact of which some of the best-managed Companies are beginning to be aware. But the sufficient answer is, that if it be new in the art of Government, the evils which it is designed to cure are new also, and due to the multiplication of intermediate offices (both civil and military) between those which our aristocracy formerly claimed to fill, and those which they regarded as too menial for their younger sons. The unpardonable offence of being young has not, since Pitt's time, been considered a very grave charge either against persons or against systems, but it is here and elsewhere coupled with the prodigious statement, that there is no reason for the adoption of such a principle in the Civil Service which would not equally apply to its extension to the highest offices of the Church and State—

¹ Political Future of England, sect. vi.

² Papers, etc., p. 77.

offices that are usually filled (certainly not according to seniority) by persons who have been many years before the public, and that are exposed to the searching criticisms of party adversaries and of the Press. That is to say, there is no security that can be properly demanded for the better regulation of the Irish "county surveyors," or Indian "writers," which would be inapplicable to the choice of a Lord-Lieutenant, or a Governor-General. But very little acquaintance with history is needed to show that the preference of secondary considerations to capacity, even in these higher appointments, is in some degree peculiar to times and institutions such as our own. It was not the fault of those Republics of ancient Greece and mediæval Italy, in which executive magistracies were awarded by popular election; it was not among the vices of those monarchies framed on the model of military despotism, in which advancement was a desperate game, and kingdoms were bequeathed "to the ablest," nor of those warlike ages in which, nevertheless, the intellectual prestige of ecclesiastics placed them in almost all positions of trust; it was not the doctrine of the great historians and philosophers of the old world, who identified social superiority with superiority of "education," and declared that to be "the most hideous form of constitution in which the highest opulence is esteemed the highest merit;"¹ it is contrary to the protests of the English Commons under the Plantagenets no less than to the practice of Charlemagne and Cromwell, Frederick and Napoleon;—a practice travestied even in the corrupt reign of Anne by the profuse distribution of offices among the literary celebrities of the day. He must be a bold critic who would ridicule the principle on which the Grande Armée was consolidated as inapplicable to military organization, or justify, by appeals to experience, the gross nepotism of our Staff appointments, when we know that it is contradicted by the experience of every foreign country.²

It is a remark of Bentham,³ that despatch could never be

¹ "Neque ulla deformior species est civitatis quam ea in qua opulentissimi optimi putantur."—Cic. Rep. 33, 34.

² "In every foreign country the entrance to the Staff School" (the only avenue of admission to the general Staff), "is gained by competition."—Report on Foreign Military Education, p. 19.

³ Dumont's Bentham, *Principles du Code Pénal*. Quatrième partie, ch. xi.

ensured in the transmission of letters by post, till it was suggested by a Mr. Palmer that mails and passengers should be carried by the same vehicles. For the one certain means of securing efficiency in the discharge of public duties is to bring the sympathy and intelligence of the community to bear upon them. For want of this vital stimulant, which no temporary fillip can supply, the condition of our army and navy must always lag a little behind that of services less withdrawn from popular inspection. It is the "master's eye," and not only the more active recognition of merit, that ensures the success of our commercial undertakings. The public cannot thus superintend its own affairs, and public men are surrounded with a bustle and importunity very unlike the business-like atmosphere which favours the management of private concerns. Both these evils will be considerably mitigated by the adoption of a principle which will popularize the functions of government, while it removes the chief sources of temptation and distraction. It may be added that tax-payers, knowing well that "there is nothing which costs more than inefficient servants,"¹ will scrutinize less grudgingly the salaries of an administrative corps at the same time more efficient and less exclusive.

It is safer for the people to distrust the good intentions than the ability of their rulers, and few things would tend more to allay the irritation too manifestly felt among the more dangerous orders of our society towards what they significantly call the "governing classes," than the adoption of "Promotion by Merit." If, as Lord Grey asserts, exclusion from office is the last alleged practical grievance that supports the demand for an extension of the suffrage,² statesmen would do well to consider whether there be any less perilous vent for the democratic spirit than one which would open the road of preferment only to the most educated. What Thucydides calls "a moderate fusion of the few and the many,"³ is best effected not by compromises in the nature of commercial arrangements, but through the medium of a comprehensive principle. Mr. Mill uses no exaggerated language when he speaks of "the great and salutary

¹ Rev. F. Temple. Papers, etc., p. 35.

² Reform of Parliament, p. 127.

³ Thuc. Hist. viii. 97.

moral revolution descending into the minds of almost the lowest classes, which would follow the knowledge that Government (to people in general the most trusted exponent of the ways of the world) would henceforth bestow its gifts according to merit, and not to favour."¹ The real fear is the opposite of that entertained by Lord Ellenborough; it is that too large a proportion of the aggregate ability of the country might be in the pay of the Government.² But we have seen that it is no part of the scheme to erect a Prussian drill-system side by side with an English aristocracy, nor to make office less accessible to individuals of other than official reputation, nor even to touch the Parliamentary tenure of the higher posts. The utmost that can here be expected is that incompetence will become more conspicuous in the chiefs when the staff is composed of eminent men; and perhaps in time the idea may grow up that the best title to power is, not to be born to it, not to stumble into it in the perplexity of a party-crisis, but to deserve it. Till then, public spirit, once the commonest, must remain the rarest of political virtues; for states have outgrown the range of local and party sympathies, and have found no popular substitute for the grand though heathenish motives of the democratic heroes of antiquity. Meanwhile a constant accession of new ideas, a periodical influx of fresh and eager recruits, on the principle of Russian strategy, will speedily revivify administration, and make itself felt in politics. The middle and lower classes will indeed gain a large share in government, but they will gain it, not as representing the "mercantile interest," or "Proletariat," but by the operation of a principle which sees no distinction of classes, and measures peer and peasant alike by the eternal law of personal worth—a law too sublime to pander to social jealousies.

V. The impulse which Promotion by Merit is capable of imparting to Education is too obvious to need much comment. This is no place to discuss the question whether popular enlightenment is or is not a national blessing, or whether such external encouragements as the opening of the public service are legiti-

¹ Papers, etc., p. 92.

² See De Tocqueville's *France before the Revolution*, bk. ii. ch. 2.

mate aids to the spontaneous pursuit of knowledge. I assume that human nature is ennobled by cultivation, and that no *mauvaise honte* need deter one great branch of civilization from accepting a helping hand from another. If so, the virtual creation of a new profession, the entrance to which should depend on merit, would assuredly influence the working, not only of our public schools, but of grammar-schools throughout the country, establishments, the general inefficiency of which is flagrant, and is ascribed by Dr. Graves to its true cause—"that the influence of competition is unfelt by the masters."¹ And if, as Mr. Mann suggests in an able pamphlet on this part of the subject,² appointments below the rank of clerkships, calculated at 650 annually, should also be thrown open, every part of the great educational movement, from elementary schools to the new middle-class examinations, would receive a practical support, without which it may long have to struggle for existence.³ Intellectual industry is not self-supporting, and the law of supply and demand regulates with considerable uniformity both its degree and its direction. The cultivation of Oriental languages among Indian officers is sustained by the regulation which makes the knowledge of them essential to certain Staff appointments; and for an opposite reason both "the importance and the education of the senior department (at Sandhurst) have greatly diminished of late years."⁴ Moreover, competition, though often laughed to scorn as an educational chimera, is very far from exerting its full influence even on centres of education, and the hostility to superior merit exhibited in the exercise of certain University patronage is as conspicuous and disastrous as in the sphere of the Horse-Guards and Downing Street.

¹ Papers, etc., p. 25.

² Civil Service Competitions considered as a means of Promoting Popular Education.

³ It might even be a subject for consideration, whether the existing machinery of middle-class examinations might not so far be made available, pending the preparation of a more comprehensive scheme, as to become the avenue to a certain number of Civil Service appointments. I believe that the examinations of the Society of Arts are already indebted for encouragement of this kind to the present Prime Minister.

⁴ Report on Foreign Military Education, p. 22.

No mean service might be rendered to Education by a scheme which would increase the inducement, in the case of more promising youths of the middle and working classes, to prolong the scanty period now allotted to study. It is not uncommon to meet with protests against what is called a system of artificial forcing. Is there then no "forcing" on the side adverse to education? Do the farm and the factory offer no temptations to the cupidity of parents—themselves, perhaps, uneducated—to sacrifice advantages on behalf of their children, to the value of which they are, notwithstanding, fully alive? May we not even compete with these active rivals by opening a more honourable, though perhaps less lucrative, career? I believe that in so doing we should mitigate the most inveterate difficulty against which education has to contend. The propensity to money-making is, perhaps, of all others that which can best protect itself.

A public, yet un-Academic, system of examination might also have a very salutary effect in harmonizing, without stereotyping, the elements of a solid English education. It is time that the floating theories on this subject should be fixed and brought to some practical issue; nor have the Universities, which as yet educate but a small fraction of our society, shown much capacity to arrive at a satisfactory solution. The internecine feuds between religious and secular, Voluntary and Compulsory, Denominational and Comprehensive, may perhaps never be healed, but the settlement of intellectual differences is not so hopeless. Surely it is not too much to expect that a better understanding between exact science and useful knowledge, between that which informs and that which disciplines the mind, would be promoted by a thorough reconsideration of both systems in relation to the exigencies of active duties.

VI. Such are a few of the aspects of "Promotion by Merit" in its double connection with good government and popular education. After all, the real danger is, not that the principle should be crushed by opposition or even blighted with ridicule, but that it should be listlessly adopted and feebly trifled away. These are not days in which it is martyrdom to be "righteous over much;" men of the world have learnt to dismiss with a languid

smile of incredulity as schemes of "world-bettering" suggestions which strike at the root of common vices, and have become adepts in the vile tactics of confessing and justifying their own dishonour. The true man (so runs the new morality) is no longer to combat evil, and grapple with it to the death—this were an "unpractical" course—he should rather accept it as a fact of human nature, and content himself with studying as a humble disciple the tendencies of his age. Besides, why disturb the public peace about a reform, which does not originate "from below," threatening us with some disastrous alternative, and which has more the look of a bonus than of a bargain? It must be confessed, that more intolerable evils than jobbery have been borne without grumbling. The last generation, the generation which saw a war first fomented by the prejudices of a class, and then starved by the paltriness of a faction, which had watched the same political curse of personal and party interests, in various forms, thwarting and almost paralyzing the heroism of Nelson and Wellington, Wilberforce and Romilly, Jenner and Stephenson, might well feel that the lash has fallen but lightly on the Administrative Reformers. Perhaps it is right that projects of deep amelioration should be subjected to the strain of long and stubborn resistance; but history, which hardly stops to notice these petty revolutions of opinion, never ceases to do ample and passionless justice to the memory of public benefactors.

To appreciate justly the strength of the antagonistic principle, and the true limits of our own—such are the two conditions of success. The most plausible error which underlies the misconceptions, popular and philosophical, of "Promotion by Merit" is the belief that the present stratification (so to speak) of English society, as it is the result of natural development, somehow represents a better arrangement for Government and all other national purposes than any artificial modification could produce. I answer, that one great lesson of history is the delusiveness of such an inference, that our present politico-social equilibrium is itself due to evolutions stranger than any which apparently remain to be accomplished, and that where processes are at work which we do not understand, a policy intended for

quietism often becomes repression. Repression is not the less repression when practised by those who are no terrorists but well-meaning gentlemen, perfectly unconscious that there is anything oligarchical in reserving all the honourable appointments in the public service, civil and military, for youths of good connections. The trumpery jobs of our days may seem a trifling calamity compared with the open corruption that preceded them, and even this looks pale beside the dark and cruel selfishness that forms the background of the picture. And yet in their own degenerate way they represent the great political treason of ancient times, the eternal rebellion of private self-aggrandisement, of individuals, families, or classes, against the public good. That is no light political evil which permanently deprives the State of the services of her best citizens; that is no superficial meanness of our nature which has been known to survive the love of life in the martyr's dungeon, and sullied the lustre of Bossuet's dying fame. "*Diversissimas res pariter expectant; ignaviæ voluptatem et præmia virtutis.*" This is the inveterate instinct of all holders of power, elective no less than hereditary; and against this the combined efforts of all other men will scarcely prevail. Bunyan was too sanguine when he described the giant Pope as "grown so crazy and stiff in his joints, that he can now do little more than sit in his cave's mouth grinning at pilgrims, as they go by, and biting his nails because he cannot come at them." Ancient impostures do not die so easily. The fate of Herr Von Hinckeldey in Prussia, the treatment in England of those who dared (by Her Majesty's orders) to probe the causes of the Crimean disasters, may serve to warn us that the true character of oligarchy is still, as ever, insolent, unscrupulous, and implacable. And as it is only the ceaseless tide of human industry that saves society from relapse into the yawning abyss of barbarism, so but a short relaxation of vigilance would restore the old spirit of selfish misrule, still rampant and tyrannical as of yore.

Nothing would be more fatal to the progress of "Promotion by Merit" than a misconception or exaggeration of the results which it is capable of producing. Not all the visionary expectations which cluster round a true idea can make good their claim

to be partakers of its immortality. To erect a St. Simonian hierarchy of talent, to preach a gospel of ambition, is no part of its mission. No manipulation, however skilful, can add to the raw material, so sparingly provided by nature, out of which able generals and administrators are fashioned. At a certain point too, a point happily within the range of full publicity and criticism, merit ceases to be amenable to any test except that of public opinion ; for mixed considerations do and must determine to whom the nation will confide the supreme conduct of affairs. Meanwhile, Promotion by Merit is a specific only for defects in the external working of government ; upon the secret economy of political life its action is merely dynamical and corrective. It may develop but it cannot create, it may suggest but it cannot compel ; it may procure fair play for the legitimate influences of character and ability (which birth and station never fail to enhance), but it will not arrest the immoral power of riches, or secure a discrimination between the spurious and genuine forms of social ascendancy. "*La carrière ouverte aux talents*," is not, as Mr. Carlyle would have it,¹ the whole political truth ; enough for us that it is an integral part of it. What it can do, is to substitute for the coarser and baser means of binding parties together at the expense of efficient action, an instrument which has the precious quality of giving at once vigour to administration and a higher ideal to statesmanship. What it cannot do, is to strip the imposing pageant of party government with its intrigues, and personal jealousies, and ministerial crises, of its meretricious decorations, and to reinstate the art of ruling in its noblest though long-forgotten character as the guardianship of human beings.

Once more, let it be remembered, that "Promotion by Merit" is not a scheme, but a principle, independent of all its proposed applications ; that it asserts no right to revolutionize institutions, but only to influence political conduct through the medium of conviction. Its doctrines may be summed up in the single proposition, That in the distribution of offices and emoluments, from the least to the greatest, the State should recognize no interests but its own. Let this be granted—and few in these

¹ *Heroes and Hero-Worship*, p. 375.

days profess any object but the public good—let this be granted, and then let that vast majority, who “have no interest in wrong,” judge between Patronage and Competition. The worst of the crude and wild suggestions hitherto offered on the side of Merit might deserve success on such an issue.

Thus limited, Promotion by Merit will never perhaps be a question of such urgency as to sustain a popular cry; nor will its wisest advocates desire that it should become so. The permanence of a movement is not to be estimated by the immediate stir which it creates; for petty disturbances of the atmosphere are more striking and obtrusive than the solemn process of the seasons. Lord Derby tells us that “the principle of competition is on its trial.” Be it so. Great principles are those that can wait for their adoption; “men may come, and men may go,” but their term of life is more than human, and their free discussion is already a pledge of their success. It is not given to one generation to witness the beginning and the consummation of such victories. They who hear the bugle at dawn are not those who will sleep upon the battle-field. “*E pur si muove.*” That confused antagonistic mass of interests and prejudices, the last relic of feudalism, is not brute matter; it is united by a secret intelligence and a common vulnerability. With the sensitiveness at least of high organization, it feels through every fibre, and must in time give way. But it is here, we may be sure, that the champions of Privilege will long stand at bay. The old Roman patricians bore with equanimity the intervention of tribunes and the encroachments of the comitia, but they declared the opening of the great executive magistracies to be an insult to the gods themselves. This is the true sentiment of exclusiveness. “We have abated many of our territorial pretensions, we have consented to play a less conspicuous part in legislation; but shall we submit to communicate the secrets of office to the profane masses, to be judged as public servants by our merits alone, to be jostled in our very ante-chambers and mess-rooms by plebeians, and—what is worse—by clever and high-spirited plebeians?”

It is even come to this.—Through the appointed stages of neglect and ridicule, active opposition and dull obstruction,

sooner or later, according to the zeal and discretion of its supporters, whatever there is of truth in Promotion by Merit, will attain, as greater and more injured principles have before, the Euthanasia of political theories—to pass from the agitation of controversy into the dignified repose of tacit recognition. So to labour, that those who come after him may find the unity of his work marred by no fantastic or ephemeral conceit is the highest aim of the reformer ; an aim worthy of an age which measures the value of ideas, not as products of the imagination, but as contributions to practical improvement.

POLITICAL NECESSITY.¹

1860.

THOSE who watch the disturbances produced by dominant ideas in political opinions will have detected for some time past the prevalence of a new and very mischievous abstraction. The idol of "political necessity" has superseded the "original contract" and the ideal "British Constitution." Without disclosing itself in express terms, it underlies the language of protocols, of Royal speeches, of Ministerial statements. The familiar word which we have employed to designate it, scarcely gives an adequate idea of its nature. "Necessity" has long been the "tyrant's plea;" but that necessity is but another name for the instinct of self-preservation. The reasons which have been supposed to justify the September massacres, and those on the Boulevards in 1848, may be resolved into the desperate exigency of an internecine contest. On the other hand, physical necessity, which some theologians and philosophers have been at much pains to import into the moral sciences, has never aspired to influence individuals as a practical motive. In the common affairs of life, neither Calvin nor Comte would study conformity to a pretended necessary law of human actions. But the peculiarity of "political necessity" is that it does operate powerfully as a motive, and leads men in power to do that which, viewed in the light of the old Thucydidean antithesis, they admit to be neither honourable nor expedient. To a bystander they often appear to be propelled by invisible forces, and to recoil before invisible obstacles, but the juggler behind the scenes is "political necessity."

¹ Reprinted by permission from the *Saturday Review* of June 28, 1860.

It must be admitted that such a necessity of a legitimate kind may exist. A famine, for instance, may necessitate exceptional legislation, and even a national sentiment may be so strong and inveterate as to be invincible. These are, for the time, real political necessities, and it is for these that the spurious varieties palm themselves off. Nothing can be more apparently inconsistent than the motives which they represent. Most people agree that the admission of Jews into Parliament was a political necessity, and many think that a new Reform Bill and the abolition of Church-rates have now become so. But no one thinks of Law Reform, the improvement of education, or the diminution of pauperism, in this light. To resent by force of arms insults offered by weaker States to ourselves or our allies, and to maintain the "balance of power" established at Vienna, are unquestionable political necessities. But we know by experience that international rights may be pretty flagrantly violated by a strong power without its occurring to any one that interference is necessary, while the grand object of the Vienna Congress, the exclusion of the Bonapartes from the throne of France, has ceased to be necessary, or even practicable. As to establishing some permanent machinery for the peaceful settlement of disputes between nations, it will probably be long before such a project rises to the dignity of a political necessity. At present it passes for an absurdity quite as great as the abolition of duelling appeared to our grandfathers. In short, these necessities are relative only. They depend for their existence on jealousy and antagonism, and have generally something to do with over-reaching or outbidding one's neighbours.

It is certainly worth while to consider what the consequences of defying one of these supposed necessities would be. Would it not often amount to no more than the loss of office, or the sacrifice of some favourite hobby, and might not the tide of prejudice be sometimes turned by such resolute conduct? It does seem strange that the mysterious persuasion that "the time has come" for a thing to be done, or to be abandoned, should have power to paralyse opposition, and scatter political pledges and individual convictions to the wind. Under the French Empire all this is intelligible enough. In the native

land of diplomatic irony "political necessity" is nearly related to the "inexorable logic of facts," and "I must" waits closely on "I would not." The supreme power, having made itself a political necessity, can create or uncreate others with a stroke. But when the means of persuasion and constitutional resistance are free, we do not think a statesman should lightly despair of dissuading his countrymen at least from a mistaken policy. Above all, we should not be scared by a metaphysical bugbear out of subjecting it to that rigorous scrutiny without which the expediency, much more the necessity, of a measure cannot be tested.

This abject faith in the power of circumstances over individual will is altogether modern. In ruder ages there was no magic in "public opinion," and events were too capricious to suggest any other than an arbitrary origin. That "man was man and master of his fate" was the natural creed of the olden times, and the blindest superstition went hand in hand with the most independent action. The temptation—a temptation not confined to individuals but affecting whole classes—to take their rule of political conduct from a traditional interpretation of the spirit of their age, is the temptation of a "smaller time," when the world seems to move of itself and nothing to remain for statesmanship but the diagnosis of its tendencies. It is then that wisdom is felt to consist in steering to that side where the stream runs strongest, in stealing a march on destiny by forestalling and adopting its designs. The "sick man" is to be dissected and dismembered as if he were already dead; centralization is to be accepted as a fact, because decentralizing influences wax faint and few; democracy is to be organized, because every one foresees that it must come to that in the end. There is a kind of fascination about such a prophecy as that Europe will one day be Republican or Cossack, which raises this hideous alternative above a mere conjecture, and tends to deaden those very exertions which could deprive it of all probability.

Much practical harm is done by a confused use of metaphors and analogies and a vicious association of ideas. No figures of speech are commoner than those which attribute movement to all human affairs, and a peculiar rapidity of locomotion to the

progress of our own times. Because we unconsciously move onward in the sense of keeping up the succession of the species and the continuity of history, it seems to be inferred that the direction in which we are to move is not very much in our own power. Because we travel faster by sea and land than our ancestors, circulate knowledge more rapidly, and facilitate by machinery the supply of many of our wants, it is virtually taken for granted that our actions should be slashing and our deliberations precipitate. It would be easy to show that the retarding influences of modern society are not less powerful than the accelerating—that the greater complexity of interests, and the increasing difficulty of combination, are an ample counterpoise to the expediting agency of steam and the printing-press. Modern wars demand a forethought and resource of which the Crusaders could not have conceived. Modern literature expends the labours of several generations on subjects which to transcribers and rhyming chroniclers would scarcely have seemed worth an hour's study. Think of a great religious revolution in our own days being dispatched with the simple formula—“*Adora quod incendisti, incende quod adorâsti*”—or a modern Reform Bill being hurried through at the pace which carried Magna Charta. Neither reason nor facts justify the inferences drawn from the mechanical conception of “progress,” but in truth the whole conception rests on a worthless analogy. In the same way, men are said to “live faster” now than heretofore, and so, in a certain sense, they do; but how completely the analogy breaks down in its most important application is demonstrated by the altered rate of life-insurance. Common sense and experience stultify the belief that haste and hurry are the providential conditions of politics in the 19th century; and to act upon such a belief is like attempting to adjust our individual movements with reference to the earth's rotation, or the progression of the solar system through space.

People recognise no such necessity in private concerns. “The time” may “have come” for a man to send his boy to school, to paint his house, or to retire from business, but the occasion has to wait the convenience of his pocket, and to take its turn with other claims. Sometimes it is dismissed altogether.

It remains to be proved that the circumstances of political action resemble physical laws more than they resemble the motives of private conduct. Something no doubt is due to the imposing scale on which the politics of modern times are transacted, and to the helplessness of which the boldest statesman is conscious when he is originating any step out of harmony with—still more if it is counter to—the movements of that vast machinery by which he is surrounded. Something too must be conceded to the natural tendency of human beings to limit their views to what can be accomplished within the span of a single life. And yet of whom can society more justly demand such elevation of sentiment than of those who aspire in youth to its highest honours, and cling to power with the constancy of martyrdom?

At all events let not the practical danger of this unworthy creed, of this habit of “fleeing where no man pursueth,” be disguised or underrated. For the worst is, that the repeated appeal to a principle independent of prudence or conscience does actually produce a bastard necessity of a truly formidable type. Gratuitous promises and needless demonstrations raise hopes which in their turn clamour to be realized. One party or Minister bids against another till the fear of disappointing expectations artificially created conjures up the “necessity” of going forward, or of forfeiting a leading position. And so statesmanship degenerates into shrewdness without wisdom, and tact without firmness. The statesman is to follow, not to lead—to study tastes, rather than carry out principles. A pointer-like faculty of seeing the direction which the game is taking, under the name of a clear perception of the signs of the times, is the most enviable of his gifts. It is a curious fact that an age which tolerates the most daring speculation in sciences where man is properly a “minister and interpreter,” should acquiesce in a principle which lowers him to the position of a humble spectator in the management of his own affairs.

The excessive deference of individual politicians to “public opinions” may be palliated, if not excused; but a whole generation trembling at what is, in fact, its own shadow, is a mournful spectacle. Overwrought nerves and exhausted energies require a certain amount of stimulant to steady them, which the instinct

of agitators readily furnishes. This is so far natural, and perhaps venial, but the responsibility of the public cannot be so easily disposed of. So long as they indulge a vicious appetite for pulling about their institutions without a serious purpose of improving them, so long will timid statesmen be found to gratify it under the name of "political necessity." The worship of this idol created by "public opinion" in its own image will be found inconsistent with a really great policy. Adherence—even blind adherence—to a grand principle has in it something ennobling: the constant study of petty exigencies is essentially degrading. The word "necessary," like the word "impossible," should be all but banished from the political vocabulary of those who regard the acts of nations as amenable to the simple laws of right and wrong.

PRINCIPLES OF PARLIAMENTARY REFORM.

1859.

Two out of the numerous pamphlets elicited by the prospect of a Reform Bill have seemed to us to merit more particular attention—the one as the production of a writer long versed in the problems of political philosophy, the other as a vigorous statement of views just now very generally entertained, though not often so well expressed.

Mr. Mill's "Thoughts on Parliamentary Reform" were committed to paper in anticipation of Lord Aberdeen's promised measure. "Subsequent reflection has only strengthened the opinions then expressed. They are now published, because it is at the present time, if ever, that their publication can have any chance of being useful." We may add that they are characterized by a rare freedom from party animus, and by a general breadth of treatment, partly, no doubt, due to the mellowing agency of suppression, and very refreshing to eyes wearied with poring over schedules or comparing the dots on rival maps of reformed Great Britain. Just as lunar observations are occasionally requisite to correct the errors of chronometers and dead reckoning, so the reference to ancient standards and comprehensive principles steadies and fixes the calculations of practical statesmanship. In the application of this test what we lose in neatness and facility of adaptation we gain in freedom from temporary aberrations; and, perhaps, if it were more frequently employed, the work of legislation would not so often need to be undone, or done over again.

¹ A review of "Thoughts on Parliamentary Reform," by John Stuart Mill; and of "Reform: Look before you Leap." Reprinted by permission from the *Times*.

The phenomenon of a Reform movement, originating in no excess of physical suffering, and suggested by no assignable turn of events, is attributed by Mr. Mill to "the new character which has been permanently impressed on the politics of this empire by the great popular triumph twenty-six years ago." Thenceforward "improvement" was inaugurated "as the general law of public affairs; improvement in itself, improvement for its own sake, not such particular improvements only as any section of the public deems called for by its own immediate interest." To the moderation resulting from a "full reliance that anything which they recognize as an improvement will in time be obtained," Mr. Mill attributes the apparent indifference of the English people, and prognosticates that a Reform brought forward in such a temper of the public mind will be a "half-measure;" indeed, that "no considerable section of existing political men desire more"—a conclusion in which the author himself acquiesces.

That so advanced a Liberal as the author of the "Principles of Political Economy" should hold such language, is in itself a portent not indeed without a parallel in the history of the present crisis, but interesting as contrasted with the view adopted in the second of the two *brochures* to which we have invited our readers' attention. After accepting the expected Reform as a sad necessity, this writer compares the present year in a desponding tone, with 1832, and dwells on the issue of the impending decision, as if it were to be absolutely final. "Then (in 1832), if we had been able to remain still for the time, we should sooner or later, have gone forward; now, whether we take one road or the other, we can hardly hope to retrace our steps. Whither our future course shall tend, depends on our present turn to the right or the left." For our own part, we regard this clutching after finality as an error no less grave, and more unphilosophical, than the half measures of Mr. Mill. It is perfectly idle to speculate on the probable course of our future development, or to suppose that we can forestall the solution of those questions which Providence reserves for our posterity. Our concern is, the supply of ascertained wants and the cure of ascertained evils, and whatever be the destiny of the English

nation, we may be sure that measures directed to this end will form harmonious links in the great chain. On the other hand, if a constitutional alteration is to be made "rather because everybody sees such alteration to be right in itself than because anybody either vehemently desires it, or is expecting from it any great or conspicuous practical result," it is fair to ask whether so refined and abstract a motive justifies our incurring the inconveniences inseparable from repairing a house in which, meantime, the inmates must continue to reside?

Mr. Mill proceeds to define the qualities most valuable in a good "half-measure," "that it should be aimed at the really worst features of the existing system," and "that it should be conceived with an eye to the further changes which may be expected hereafter." The treatment of these two branches of his subject furnishes a good illustration of Mr. Mill's strength and weakness as a political writer. Where shrewd observation and a knowledge of the external conditions of politics are the chief requisites, his remarks possess much value; but his way of dealing with society as a whole is rather that of the political economist than of the statesman. The author of "Look before you Leap" is troubled by no high ideal of human motives, or the possible perfection of society. His warnings are sincere and hearty, his suggestions few and timid, and even these he takes care to explain, might safely be neglected. Mr. Mill, on the other hand, is thoroughly in earnest about social reform; and though he is too good a moralist to prescribe any nostrum as a specific for improvement, there is something professional in his manipulation of those highly complex associations of motives and prejudices which elude equally the analysis of the metaphysician and the statistician, but which the rough empiricism of the veteran party-leader often handles successfully.

The small boroughs, as usual, are the first battle-ground, and Mr. Mill displays no lack of generalship in fixing on the key of the enemy's position. "The most serious mischief is, not that only a fraction of the community have the right to vote, but that the majority of the House is returned by a very small fraction of that fraction. The small boroughs, those which number from 200 to 400 electors, are the seat of all the evils which the Reform

Act of 1832 intended, and was believed, to annihilate." He maintains that, "a large portion of the House are still what they were before 1832—either the delegates of individuals or the representatives of their own purses;" and that the opponents of Reform, by upholding these, "dedicate a large and almost predominant portion of the representation to the needy, the dependent, and the uneducated." If the best answer to this that can be found is the one invented in the pamphlet, "Look before you Leap," that the counties being inadequately represented, "the balance is redressed by the large number of small boroughs under the control of country gentlemen," we think the justice of Mr. Mill's strictures is virtually confessed. The "theory of the constitution," which his antagonist is fond of invoking, knows nothing of the "control of country gentlemen," or of control of any kind, and though it is no stranger to the various interests into which the nation is divided, it certainly does not prejudice to this extent the sentiments of those whom it enfranchises.

Lord John Russell's abortive scheme for the annexation of small boroughs, without disfranchising, or even consolidating, any existing constituencies, is criticised by Mr. Mill with not undeserved ridicule: "Had this schedule been adopted, it would have spotted the map of England with groups of small places, so capriciously distributed as to bring the very idea of districts and boroughs into contempt, and without mitigating, but rather in some respects increasing, the present causes of complaint." "What could be more absurd than that Calne and Chippenham, both nomination boroughs, and actually conterminous, should (as in Lord John Russell's scheme) subsist as a sort of double star, with each its separate system of planets?" But when Mr. Mill comes to the constructive part of his task, his imagination presents to him no humorous picture, "if all householders, or even all £10 householders, *without distinction of sex*—for why should the vote-collector make a distinction where the tax-gatherer makes none?—were admitted as electors, *on condition of proving to the registering officer that they could read, write, and calculate.*"

We have selected this passage because it contains two

examples of a kind of pedantry which, mixed up with much practical wisdom, occasionally disfigures Mr. Mill's writings, and which is here peculiarly deceptive. He sees in theory no distinction between the sexes for political purposes, and his experience of women (herein greatly differing from our own) leads him to believe that they might be enfranchised beneficially. Again, he convinces himself that personal fitness, tested most readily by an educational standard, is the true qualification for citizenship. He sees no obstacle but the perverseness of the public to the practical recognition of these two doctrines, and, therefore, like a true *doctrinaire*, he recommends their immediate adoption, saving the interests of existing electors. We wonder that a reasoner so acute should propose as a preliminary that which at best could only be a result of social perfection. To base the franchise upon principles half recognized by a few philosophers, but utterly strange to the mass even of educated men, seems to us a complete inversion of the natural order. Mankind must be converted before they are subjected to the dominion of a new hierarchy. We would offer no obstacles to Mr. Mill as the pioneer of a social movement, however indefinite in its tendency; but we protest against anticipating its triumph by stamping on our representative system the chaotic outline of a creation yet to be consummated.

There is a fascination in questions affecting Government and political rights which often leads to an exaggerated estimate of their actual influence on the affairs of human life. Men soon lose sight of the ministerial functions of Government, and come to regard a share in legislative power as an end in itself. Hence all those theories which claim for representation an independent organization, adapted not to the existing state of society, but to some ideal scale of relative importance at variance with that recognized in all other transactions. The representative machinery, if it is to fulfil its purpose, must work in subordination to the habits and associations which operate not only at contested elections, but in the daily intercourse of the market-place and the family, and which lie deeper than any positive institutions. It is this consideration which disposes of Mr. Mill's scheme for the enfranchisement of women, a measure wholly

incompatible with their present state of dependence. This, too, appears to us fatal to the expedient of graduating the franchise by an educational standard, to which we shall have occasion again to allude. As for electoral districts, which are open to the very same objection, inasmuch as they substitute artificial aggregates for the natural and familiar individualities of town and country, Mr. Mill, by a happy change of policy, rejects them altogether, and even rebels against the extension of the county franchise to £10 householders in unrepresented towns, "for such a measure would be little less than the complete political extinction of the rural districts." With the spirit of this remark we agree, and we think that a more consistent adherence to the principle involved in it would have saved Mr. Mill from an error which he would himself condemn, that of attempting by political machinery to accelerate social progress.

We must not, however, be understood as endorsing the favourite paradox of the author of "Look before you Leap," that we have "the most anomalous, and therefore the best representation that the world has yet seen." What is here most gratuitously assumed is, first, that the anomalies were originally of spontaneous growth, and not in any degree the creations of selfishness or design; and, secondly, that the appearance of entirely new phenomena in our social condition affords no reason for modifying our representative system. Indeed, this writer avows a positive preference for indirect methods of attaining political ends. He supports an exclusive property qualification, not in itself, but as a test of education, half advocates the exclusion of the working-classes from the suffrage "because their very numbers secure them respect and attention," and admires the arbitrary elevation of Tavistock or Huntingdon on grounds which would equally have justified the monopoly of the privileged cities of Castile, because he thinks them more likely to understand the common interests of unimportant towns than the whole class of which they are average specimens. This way of valuing institutions for the sake of results never contemplated by their authors, as if the best way to hit one thing were to aim at another, reminds us of the homage paid to Homer by a late eminent critic, not because he

is the father of poetry, but in virtue of his contributions to history and patriarchal theology. There is no magic in political development; here, as elsewhere, effects correspond to causes, if reasonable attention be paid to the character of the subject matter. It is one thing to know the limits of our power, and to abstain from correcting the grand irregularity of natural laws by line and rule; it is another to suppose that symmetry proceeds from the absence of design, and to ape artificially the variety of nature.

There is no point upon which the contrast between the two pamphlets before us is more striking than in the estimate which they respectively imply of the position of Parliament with respect to the people at large. Mr. Mill evidently regards a share in political action very much as a part of popular education, and treats the constitution of the House of Commons and the balance of power within it as a secondary consideration. The units in all his calculations are individuals, "not classes" or "interests," and for all that appears in these pages he is indifferent to that equipoise of conflicting forces which has come to be regarded as the capital problem of political dynamics. The opposite theory consists in merging the idea of individual citizens in that of certain assorted bundles of rights and interests representing the "various elements of which the nation is composed," and the perfection of a representative body is conceived to be that it "should give to each its proportionate weight and influence." The existing system, we are told, "gives representation and influence on the Government, more or less directly, to all classes; and, with one exception, to each in a proportion more or less accurate to its natural influence and authority as a constituent element of the nation." When to this position is added the doctrine, that "the law of Nature is aristocratic," that "the rich will always be more just to the poor than the poor to the rich," and "that poverty is pretty sure of fair play from property," it is manifest that the most rigid Conservatism needs no further apology.

The confusion of thought involved in these assertions is one from which Mr. Mill's Benthamism and logical precision effectually saves him. For however practical the constant reference

to "classes," "interests," etc., may sound, it must be apparent that these entities are but creations of the mind, purely arbitrary arrangements of the human beings who, according to all the most ancient notions of government, are the sole subjects of political power. It will be admitted that the relative importance of these mysterious aggregates is ordinarily measured, not by reference to any independent standard, such as numbers, wealth, or intelligence, but by the weight which the individual writer may be disposed to attribute to each, having regard to what he considers should be the predominant influence in Parliament. To divide citizens, therefore, into classes, and to marshal them according to their comparative claims to power, simple as it seems, is to undertake the responsibility of deciding beforehand in what proportions the great political jury is to be packed, and thereby virtually to anticipate their verdict. This is precisely what excites the greatest amount of jealousy and class-antipathy; while in a great country it is useless as it is mischievous. In the city governments of the Greek and Italian Republics, where all the citizens were trained to politics, and party feuds were heightened by the animosity of families and of neighbours, internal peace could only be secured by what we should call "class legislation." Birth and wealth, in such a state of things, might be, and sometimes were, visited with all the disabilities of which our proletariat have ever complained. The necessity for recognizing this permanent antagonism does not arise in a society so vast and varied as our own. We need no "concordat" between classes, as such, to define the disputed frontier of their relative power. It is better that it should remain unsettled; and it is their own fault if the advantage does not remain with those whose superior wealth, leisure, and education must give them something like a monopoly of political action, if not of political privileges, and among whose many claims to ascendancy one only, that founded on class interests, excites suspicion and mistrust.

Moreover, it is idle to suppose that by lumping large masses of men together under the name of a "class" they can be deprived of the importance due to their numbers or power. It is as though England and France, being as "Sovereign States"

co-ordinate with Naples or Portugal, were expected to exercise no greater influence in European councils. No theory, "arithmetical" or otherwise, can prevail against the instinct which pays greater deference to the representatives of more powerful bodies, modified only by the respect due to high personal abilities.

While, therefore, we agree with Mr. Mill and the author of "Look before you Leap" (whose respective courses cross at this point), that the "*predominant* power should not be turned over to persons in the mental and moral condition of the English working classes," for the good reason, among others, that "an uneducated mind is almost incapable of clearly conceiving the rights of others," we equally protest against any other *petitio principii* as to the point at which it would be safest to place our centre of gravity. We deny, with Guizot, that reason and justice reside in any class as their certain and abiding qualities, and we believe that the ingenuity often exhausted in devising an imaginary equilibrium would be more usefully employed in checking the self-seeking and corruption of the holders of power for the time being, whose title it would be quite as easy to invalidate as to establish that of those who are now excluded. All cannot handle the reins or hold the rudder, but if the will and interests of the passengers are consulted throughout the enterprise, they will have little ground for complaint. To insure this object, and meanwhile "to provide equals for every power for which it cannot provide superiors," rather than to shift the sovereignty from class to class, has hitherto been considered the true policy of liberty, and we are inclined to think it will still be so while men remain human.

It is difficult to understand why Mr. Mill should bestow so little attention on the House of Commons itself. It is true that to produce an efficient body of senators is not the only object of representation, and it is possible that nomination by Her Majesty in Council would be equally conducive to this single end with the more constitutional method of election. But what would be inappropriate as a motive may be valuable as a test, and it would be a tolerably conclusive argument against any scheme of Reform if the Parliament modelled on it, while speaking yet more per-

fectly than now the ignorant and selfish sentiments of classes, should fail to give expression to the enlightened public opinion of the country. In proportion as the House of Commons extends its power beyond its original sphere of petitioning and deliberating, and assumes the characteristic functions of sovereignty, it must be the aim of all wise men to invest it with the high qualities proper to support such a character. This view has not escaped the author of "Look before you Leap," and, though somewhat obscurely conceived and illustrated, it is one of the most valuable parts of his pamphlet. But when, in a subsequent passage, he treats it as an advantage that Parliament is "behind the most advanced,—less wise than those who have most thoroughly mastered the subject," and lays it down that "public action ought not to be ahead of public opinion," we think he loses hold of the truth he had momentarily grasped. If the governors are to be no wiser than the governed, we know not how the stock arguments for Democracy are to be refuted.

We shall not follow this pamphlet into its criticisms on Mr. Bright's proposed measure, or repeat its somewhat American denunciations of America, under the title of the "Democratic Paradise," because to do so would be to defeat the very object at which we, following Mr. Mill's example, have aimed,—to examine principles without reference to existing complications. To anatomize doctrines of abstract equality is really a waste of damnatory clauses, for the more practical Radicalism of our days has already abjured them. But we more emphatically object to the parade of Transatlantic vulgarity and disorders as the "terrible examples" of political temperance orators. The experience of some of our own colonies, under a *régime* the reverse of democratic, should teach us how much the high qualities of the English gentleman depend upon soil and circumstances, and how little on institutions. There is a kind of mock induction from instances arbitrarily selected which will prove anything, and of this political investigations, from the paucity of registered experiments in that science, are peculiarly susceptible. We hardly think that Mr. Mill can have gone through the processes which he elsewhere prescribes before designating the

lower classes as "mostly habitual liars." Nor have we far to look for other instances of the proverbial subservience of facts to theories. Both these writers turn the Emperor Napoleon's election to account, the one as an argument for an educational franchise, the other as a proof that the elect of the majority may not be the elect of the nation. Both advert to the large number of electors who abstain from voting; the one maintains that it is these "whose votes are best worth having," the other that in Parliamentary, as distinct from local, elections, "a man who does not care whether he votes is not likely to care much which way he votes."

It would be unjust to Mr. Mill to make no special allusion to the two practical suggestions which will probably be received by a certain class of minds as the great merit of his pamphlet—the scheme for establishing a plurality of votes in favour of certain classes of electors, and that for the representation of minorities.

The axiom on which the former plan is founded is that "what is important to ascertain is education," and it is proposed to confer additional votes, according to a graduated scale, on those whose social status affords a presumption of superior capacity, or who shall have proved their acquirements in voluntary examinations, to be instituted for the purpose. Our objections to this proposal are twofold. First, it demands a new machinery, out of harmony with existing habits, to be created solely in order to support a new franchise, a proceeding which we have already condemned. Secondly, it involves a renunciation of the principle which alone renders common action possible—viz., that the natural inequality of members of the same body should not be directly recognized, but left to the unseen operation of laws presupposed by all political systems. Were society divided for the purposes of the franchise into "horizontal layers," this attempt to deepen each ascending story of the pyramid would not be destitute of reason. But the present geographical distribution of constituencies presumes the very reverse, and respects the legitimate propagandism of ideas which secures to the educated classes an ample share of influence without investing them with any invidious badge of distinction. In

fact, assuming the opposite position that "what is important to ascertain is property," Mr. Mill himself would hardly draw the corresponding inference that votes should be graduated according to property. We heartily wish well to the ascendancy of education, but we should augur ill of its consciousness of strength if it needed to be subsidized in this manner.

We desire to speak in the same spirit of the claims of minorities. They have no superiors, except those of majorities. But we object to inventing methods on purpose to represent them. Any fair system will, without designing to do so, provide for their due representation; and this is substantially the great argument for the variety of English constituencies. It must be remembered, too, that all our manifold safeguards against the adoption of hasty resolutions are so many facilities to enable the views of the minority, if true, to become those of the majority. We shall not discuss with Mr. Mill the comparative merits of "cumulative votes," and of the scheme which assigns to each elector fewer votes than there are members to be returned. We believe that either would be harmless, but we also believe that it would be high time to remodel the distribution of our electoral bodies if either were necessary. Nothing should be made the subject of a give-and-take compromise that can be equitably adjusted through the medium of a comprehensive principle.

Enough has been said to show that abstract rights, in the eighteenth-century sense, have no place in either of the systems under consideration. Both regard the franchise as a privilege to be conferred by the existing rulers as the *de facto* trustees of the unrepresented classes on those who will not misuse it. But while Mr. Mill would dispense it with a generous hand, as "one of the chief instruments both of moral and intellectual training for the popular mind," and, with a logical Quixotism, stops to apologise (in a note) for the exclusion of lunatics and criminals, the author of "Look before you Leap" betrays a deep and pervading distrust of the poorer classes. He is so fully impressed with the belief that rights are conceded only to be misused, that he is obliged to account for the justice which he maintains has been meted by the rich to the poor by attributing an extravagant force to public opinion. Unless, however "public opinion" be

the expression of mere self-interest in the aggregate, this is but another way of saying that there is a national conscience which guards the exercise of power and restrains the abuse of it. We believe it will continue to do so, however widely representation may ultimately be extended, and we do not envy the feelings of a man who believes he is saved by their disabilities alone from being plundered by the people among whom he lives. We should despair altogether of constitutional government if we believed that nothing but the feeble barriers of the Constitution separated us from the wild and selfish passions which this author ascribes to the mass of artisans. The tyranny of trade unions, which he exaggerates into a permanent and all but universal phenomenon, is, we would fain hope, local and temporary, and certainly ought not as yet to shake that mutual confidence which, in spite of social inequalities, still holds together the several orders of Englishmen.

The concluding portion of Mr. Mill's treatise, containing his argument against the ballot, is in his best manner. It cannot, of course, be said to settle a question which reposes ultimately on various estimates of human nature, but it adds to the old and well-tried formula that the ballot is an evil, and has not yet been shown to be a necessary evil, the support of a sound "*argumentum ad hominem*." The substance of Mr. Mill's view is that, whereas thirty years ago unfair coercion "by landlords, employers, and customers" was the "master grievance of the country," it is now superseded by that mean selfishness which publicity certainly tends to check. He thinks that to create a system of disguise would be to give men's worse motives an undue advantage over their better, and to facilitate the preference of class interests to public considerations. "Nothing," he wisely remarks, "has so steadying an influence as working against pressure," and he dreads the enervating laxity of licensed independence more than the occasional thrusts of external compulsion. We recommend the whole passage to those friends of the ballot in whose minds the moral aspect of politics is not quite obscured by metaphors borrowed from commercial terminology.

If we rise from the perusal of these two essays with a certain

sense of disappointment, we should remember that the avowed object of the one is negative, while the other, so far as it quits the ground of criticism, enters that of political experiment, in which the most ambitious must be content with very partial success.

"Look before you Leap" is a favourable specimen of the political pamphlet, a branch of literature now almost superseded by journalism. It is no easy task to conduct defensive warfare with spirit, or to recommend inaction in a lively manner; yet this author has accomplished it, and withal pointed his moral with apt and suggestive illustrations. Once, indeed, he raises still higher expectations, and seems on the point of giving us some practical advice; but the prophetic impulse forsakes him, and he dismisses us, like Æneas, from the ivory gate. "It is of the highest consequence both to the logical justice and to the practical working of the system that their voice (that of the working classes) should be fairly heard. *How this is to be accomplished is a more difficult and intricate question, which cannot be discussed in these pages.*"

To Mr. Mill we owe warmer acknowledgments. He has hazarded opportunely a great reputation to clear up questions with which his long familiarity with cognate studies had eminently fitted him to deal. All that a lucid exposition of principles could do, he has done. If he has failed in the task of construction, he has but shared the fate of all, from Plato downwards, who have attempted in this subject to combine the "luciferous" and the "fructiferous" in a single process. The science and the art of politics cannot be cultivated together; they must proceed by contrary methods, and are best intrusted to minds of different orders. He who has to deal with the wills of his fellow men must often be satisfied with that philosophical abomination, a compromise, or rather a perpetual series of compromises. We are inclined to regard it as a fortunate circumstance that the perfect concurrence in the progress of facts and ideas which has been attributed to France has never characterized this country, and that the region of political speculation has thus remained unruffled by the storms which have

occasionally disturbed the course of political action. At all events, the inconveniences occasioned by this want of harmony are such as our experience and national character enable us to bear with equanimity; and perhaps we owe it to the very same defect in our development that we are at this moment the disciples, and not the martyrs, of political truth.

PARLIAMENTARY REFORM AND POLITICAL UTILITY.

1867.

THE UTILITARIAN ARGUMENT AGAINST REFORM, AS STATED BY MR. LOWE.¹

THERE lies on the very threshold of Parliamentary Reform a previous question which must be effectually cleared up before we can proceed further. It is the question whether, in discussing any measure, practical or prospective, for the extension of the franchise, we are at liberty to entertain considerations of justice at all, or whether our judgment is to be solely guided by considerations of expediency. For, if all our ideas of justice must indeed be dismissed as irrelevant; if a moral claim to representation is nothing but a metaphysical or sentimental abstraction, and neither virtue nor intelligence confers even a presumptive title to a share of political power; if the franchise is a privilege to be given or withheld by the existing legislature according to their own estimate of the use likely to be made of it, and if that estimate is to be formed with exclusive regard to the ends of good government, whatever those ends may be;—then it is manifest that most of what has been hitherto said and written on both sides of this great subject has been said and written in vain. There will still remain an essential difference between an adequate and an inadequate ideal of utility, a difference so broad and deep as to be almost co-extensive with that between utility and right; but the spirit, as well as the standard, of inquiry, will be purely utilitarian. Our language will have to

¹ Reprinted, by permission, from "Essays on Reform." Macmillan & Co.

be borrowed from political economy, rather than from ethics, and the controversy between the advocates and opponents of progressive enfranchisement must be conducted on the hypothesis that men have no rights but what the law gives them—an hypothesis upon which there is much to be said against constitutional government, and in favour of slavery itself.

It is perhaps needless to point out that such was exactly the ground occupied and defended with rare ability by Mr. Lowe in the debates of the two last sessions. The brilliant essays on constitutional government delivered by him, respectively, on the 3rd of May, 1865, the 13th of March, the 26th of April, and the 3rd of May, 1866, embody a perfect repertory of utilitarian objections to any downward extension of the suffrage. They were received with unbounded applause at the time by the Conservative party in the House of Commons and the country, and never were the doctrines of Benthamism more triumphantly applied to a political question than in these luminous speeches.¹ Though an almost superfluous amount of criticism has been lavished on their most vulnerable points, a very general impression still prevails that Mr. Lowe's main position never has been, and never can be, shaken—an impression which sensibly weakens the cause of Reform, and which, therefore, it is high time, if possible, to remove.² We cannot afford to leave so redoubtable a fortress, untaken, in our rear. Should it appear that this famous argument—effective as it was, and exhaustive as it purported to be—consists of a fallacious deduction from premisses demonstrably unsound, involves an entire misconstruction of the views which it purports to expose, and leads to conclusions which its author himself would repudiate, we shall advance with more confidence to an examination of those practical views which it was designed to support.

¹ These Speeches, with some Letters on the same subject, and a Preface by Mr. Lowe himself, have lately been republished in a volume, to which reference will be made in the following notes as "Speeches and Letters."

² In a Speech delivered on February 25, 1867, Mr. Lowe himself expressed a fear that he had succeeded in convincing nobody. His success has been greater than he seems to be aware. He has convinced nobody that any party can hold office without conceding the principle of progressive enfranchisement, but he has convinced many people that progressive enfranchisement will be mischievous to the best interests of the country.

What, then, are the fundamental propositions upon which Mr. Lowe builds his own reasoning? They are stated with sufficient precision in his speech against the Borough Franchise Bill of 1865, and in his two first speeches against the Government Reform Bill of 1866. "I take the liberty of putting aside the sentimental argument, simply observing that the single question is of good government."¹ "When we speak of a Reform Bill, when we speak of giving the franchise to a class which has it not—of transferring the electoral power from one place to another, we should always bear in mind that the end we ought to have in view is not the class which receives the franchise, not the district which obtains the power of sending members to Parliament, but that Parliament itself in which those members are to sit, and for the sake of constituting which properly those powers ought alone to be exercised. To consider the franchise as an end in itself—to suppose that we should confer it on any one class of persons because we think them deserving, that we should take it away from one place because it is small, or give it to another because it happens to be large, is, in my opinion, to mistake the means for the end."² . . . "The second is a much humbler, but a much sounder doctrine, and that is, that the franchise, like every other political expedient, is a means to an end, that end being the preservation of order in the country, the keeping a just balance of classes, and the preventing any predominance or tyranny of one class over another."³

The general purport of these passages, amplified and illustrated as they were by their context, cannot be misunderstood. They not only represent the public good, in the sense therein explained, as the supreme end of legislation, but they proscribe the influence of any sentiments which have not a direct reference to that end.⁴

I. Here, then, is the first issue between Reformers and Mr. Lowe. Those who are acquainted with the philosophy of Bentham will not fail to recognize in this canon of political

¹ Speech of May 3, 1865, *Speeches and Letters*, p. 39.

² Speech of March 13, 1866, *Speeches and Letters*, p. 64.

³ Speech of April 26, 1866, *Ibid.* p. 105.

⁴ Full expositions of Mr. Lowe's theory will be found in *Speeches and Letters*, pp. 33-39, 84, 85, 103-107, and in the Preface, pp. 3-6.

utility the radical defect of that ethical system which confounds the motive with the criterion of conduct, and assumes that because the moral value of actions may be determined by their ultimate tendencies, they should therefore be performed by the agent with the well-being of the human race consciously present to his mind. Nor is this a mere speculative heresy, when so interpreted as to make political deliberation a mere calculation of consequences; it vitally affects Mr. Lowe's whole argument against progressive enfranchisement. When he invites us to judge of a past measure, such as the Reform Bill of 1832, by its effects rather than by its conformity to any preconceived notions of justice, we cannot shrink from accepting the challenge; for utility, though far inferior to justice as a motive, is far superior to it as a test. The Reform Bill of 1832, therefore, must stand or fall by our experience of its results, and experience teaches us that, having been advocated on grounds of justice, and resisted on grounds of expediency, it has in fact produced very beneficial consequences which few even of its promoters foresaw. But the experience by which alone the Reform Bill of last session could be condemned has yet to be acquired. When we are invited to judge of a measure, not past but future, by results not ascertained but conjectured, or suggested by doubtful analogies, we may well demur to such a method of arbitrament. The adaptation of the utilitarian rule to prospective contingencies involves what logicians call a fallacy of time. Real facts are more trustworthy than the dictates of political justice; but the dictates of political justice, so far as they are warranted by our knowledge of human nature, and sanctioned by the reason and conscience of mankind, are more trustworthy than hypothetical facts.

We could not, then, consent to discuss the merits of a contemplated Reform Bill upon this basis, even if the conception of political utility proposed to us were ever so comprehensive. But Mr. Lowe, unlike Bentham, does not include among the proper objects of legislation the satisfaction of the feelings and aspirations of the masses for whom Government exists, and ridicules the very notion of studying to "elevate"¹ them by the franchise. Sometimes he describes the aim which should guide the states-

¹ Speeches and Letters, p. 37.

man in deliberating on Reform as "the happiness of the people at large;"¹ sometimes, as we have already seen, he virtually limits it to "the keeping a just balance of classes;"² sometimes he insists that it must be concentrated upon the composition of the House of Commons itself.³ It matters little which of these principles we elect, for, as expounded by Mr. Lowe, they are all fatally defective, even from the utilitarian point of view. They all equally leave out of sight the popular will, an element upon which the success of any Government which does not rely on military force, must entirely depend. They all ignore the possible value of political education, if not as an end in itself, yet as a means of bringing the greatest possible amount of intelligence to bear on the common weal, and of increasing the sum of general happiness. They all exalt administration into the highest function of government, whereas it is the most essentially mechanical, and depends for its energy on that motive power which it is the characteristic virtue of *self-government* to supply effectively.

But each of them is also open to special exceptions. Before we adopt any idea so vague as "the happiness of the people at large," for an ultimate standard of representative institutions, we ought, according to Mr. Lowe's own rule, to ascertain, by the light of experience, whither it is likely to lead us. The answer of history is decisive. "The happiness of the people at large," is the familiar watchword of despotism. It is the despot, in every age and of every type, who professes to do everything for the people, though nothing by the people, and who cuts down the tree of liberty in his eagerness to obtain its fruits. The vice of despotic government, however paternal, and that which renders it as ruinous economically as it is morally degrading, consists not in its wilful neglect of popular interests, but in its contempt for popular opinions, in treating the people as passive materials for benevolent superintendence; and this vice must attach, more or less, to every government constituted with reference to the happiness only, and without reference to the voice, of the governed. Again, what can be more arbitrary than a hydrostatic theory of

¹ Speeches and Letters, p. 38.

² Ibid. p. 105.

³ Ibid. pp. 64, 86-95, and Preface, p. 6.

representation based on an equilibrium of classes? What is a "class" but a purely artificial aggregate, which may consist of hundreds, thousands, or millions, according to the fancy or design of its framer? To know what is a just balance of classes, we must have determined beforehand what degree of weight each ought to possess in the State, and have solved most of the problems which it is the special function of a reformed Parliament to investigate. Not long ago, it was considered a fair distribution of legislative power that a few hundred noblemen should not only compose one estate of the realm co-ordinate with the Commons, but should also exercise, through relations and nominees, a preponderating influence in the popular branch of the Legislature. No one now ventures to maintain such a paradox, but the self-interest which formerly made it credible has not ceased to operate. What appears to a landlord or employer "a just balance of classes," may appear the very reverse to an impartial critic, as well as to a tenant or artizan, especially if it has been adjusted on the monstrous supposition that the more numerous a class is, the more jealously should it be excluded from the franchise. It is scarcely necessary to dwell on the suggestion that in supporting or rejecting a Reform Bill, we should be guided not by respect for the rights, or even for the interests, of those whom it would enfranchise, but only by its presumed effect on the constitution and character of the House of Commons. It would follow almost inevitably from this proposition that if nomination by the Crown would, in most cases, give us a better deliberative assembly than election by the people, it would be well to entrust the choice of members to Her Majesty. A committee thus selected might, indeed, be superior to the body returned by the present constituencies in all respects but one. It might, and perhaps would, contain more individual eminence, more public spirit, and more virtue, but it would not be representative. It might labour exclusively for the happiness of the people at large, it might devote itself to the preservation of order in the country, to keeping a just balance of classes, and to preventing any predominance or tyranny of one class over another; but inasmuch as it would be a royal council and not a chamber of popular delegates, its legislation would be futile, and its maintenance

impossible. Had the unreformed House of Commons been as enlightened as it was obstructive, it could not, for a similar reason, have been tolerated much longer. Men who have arrived at years of discretion will not submit to leading-strings or to the guardianship of trustees chosen for them. It is highly important, no doubt, that Parliament should be as efficient as possible, but the paramount object, because the most essential condition, of its existence is, that it should duly reflect the will of the people.

The utilitarian argument against progressive enfranchisement is, therefore, self-refuting. It cannot be shown that good government, or the greatest happiness of the greatest number, as conceived by Bentham, would be consistent with a general sense of injustice among the people, an entire want of confidence in their rulers, a latent antagonism, or even a sullen indifference, to the policy which is carried out in their name, and at their expense. Yet unless this be shown, Mr. Lowe's case breaks down, by his own confession. The moment we entertain considerations of this kind, and consult the feelings of the unrepresented classes, we transgress the line which he traces so carefully, and admit, in some degree, those claims of morality and justice of which he never fails to speak with sovereign disdain.¹ Whether or not the claims of morality and justice may be reconciled with the doctrines of utility, is no longer the question; for Mr. Lowe admits no alternative between embracing the inferences drawn by himself from those doctrines, and taking our stand on the "*à priori* rights" of man. This charge, repeated so often, and in so many forms, during the debates of last session,² deserves closer exami-

¹ As, for instance, in the Speech of March 13, 1866, *Speeches and Letters* p. 85:—"Government does not deal with justice, it deals with expediency. The object is to construct the best machinery for the purpose to which it is to be applied. We may violate any law of symmetry, equality, or distributive justice, in providing the proper machinery to enable us to do what is required of us." So, again, in the Speech of April 26, 1866, *Speeches and Letters*, p. 131:—"I simply deny that justice has anything to do with the matter; it is purely a question of State policy."

² Speech of May 3, 1865, *Speeches and Letters*, p. 35:—"And to what do the arguments of those who, like the Chancellor of the Exchequer, advocate the right of the working classes to be admitted to the exercise of the franchise, amount? To that assumption of the *à priori* rights of man which formed the terror and the ridicule of that grotesque tragedy, the French Revolution. When the Chancellor of the Exchequer said that the *onus probandi* lay with his adversary, he must have

nation than it has received. We have seen that utilitarianism does not involve, or even sanction, the concessions which he requires us to make; we have next to inquire whether the rejection of utilitarianism involves the *reductio ad absurdum* to which he would drive us.

II. A more definite form may be given to this second issue, by a citation of the sentence, so persistently and so grossly misrepresented, in which Mr. Gladstone stated the moral, as opposed to the utilitarian, theory of representation: "I say that every man who is not presumably incapacitated by some consideration of *personal unfitness or political danger* is morally entitled to come within the pale of the Constitution."¹ In this proposition is defined—not, indeed, with scientific accuracy, but with accuracy enough for all purposes of fair controversy—the principle of progressive enfranchisement. That principle, like all others, rests on certain presumptions, is subject, in its application, to certain conditions, and appeals for its verification to the evidence of experience. The presumptions on which it rests are such as the equality of all citizens before the law,² and the possible existence of political rights which have not yet acquired a legal sanction. The conditions of its application are those specified by Mr. Gladstone—that the claimant of the franchise must be personally competent to exercise it, and that his en-

meant that anterior to the existence of society there was vested in every man some personal *à priori* right which nobody had authority to touch. When Mr. Mill, in like manner, speaks of every citizen of a State having a perfect right to a share in its government, he appeals to some *à priori* considerations, in accordance with which every man would be entitled not only to be well governed, but to take part in governing himself." Statements to the same effect occur in the Speech of May 31, 1866, Speeches and Letters, p. 174; and in the very first page of the Preface.

¹ Speech on Mr. Baines' Borough Franchise Bill of 1864. Compare with this statement the unqualified assertion of human equality in the American Declaration of Independence, adopted in Congress July 24th, 1776:—"We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness, etc."

² That is, that one citizen's interests are of equal concern to the State with those of any other citizen, not that one citizen is equally qualified with any other to exercise political power. It might appear needless to indicate this distinction, but that it is habitually overlooked by Mr. Lowe, as in page 5 of the Preface to Speeches and Letters.

franchisement would not involve any political danger.¹ The experience to which it appeals for its verification is that which teaches us, for instance, that men, for the most part, understand and manage their own affairs better than others who have counter-interests to serve—that men pay taxes and obey laws more loyally when they have taken part in voting the former and making the latter—and that men who are denied the privileges are apt to forget the duties of citizenship.²

It would be too much to expect that any generalizations from experience, founded as they must be on a limited induction, should command an unreserved assent from a political adversary. Still less are we entitled to demand that Mr. Gladstone's statement of the conditions upon which political rights should be granted, or his opinion that these conditions have been fulfilled by a considerable proportion of our own working classes, should be accepted, even provisionally. Upon this part of the field it was reasonable and inevitable that every inch of ground should be hotly contested. But Mr. Lowe thought to secure a more decisive victory by turning the enemy's position. He must needs fasten a belief in *à priori* rights upon all who support the moral argument for progressive enfranchisement, and defy them to maintain those rights in debate. When he declared "that the arguments of those who advocate the right of the working classes to be admitted to the exercise of the franchise amount to that assumption of the *à priori* rights of man, which formed the terror and the ridicule of that grotesque tragedy, the French Revolution," he must obviously have meant one of two things—either that, in fact, that right has been generally advocated on that assumption, or that, logically, it can be defended on no other assumption. It would be difficult to decide which allegation is the more groundless. To dispute the former, would be a

¹ Mr. Lowe must entirely have forgotten this most important qualification when he directly accused Mr. Gladstone of maintaining "that the franchise is due to every one whom you cannot show to be unfit."—*Speeches and Letters*, p. 131.

² These are but a few out of many similar lessons derived from experience. The mention of them is, however, sufficient to rebut Mr. Lowe's bold assertion, that the arguments in favour of what he calls "Democracy" are "mostly metaphysical, resting on considerations prior to, and therefore independent of, experience."—*Preface to Speeches and Letters*, p. 3.

mere waste of time, until a single passage, affirming or implying the *à priori* right of man to the franchise, can be produced from the works or speeches of any living Reformer. The latter is, happily, capable of exposure without the necessity of proving a negative. If it were impossible to conceive of any right prior to law, yet not absolute, but relative—not inherent, but derivative—not indefeasible or unconditional, but dependent on other rights no less sacred—then, and then only, could Mr. Lowe be justified in gratuitously identifying the moral rights which Mr. Gladstone alleges with those *à priori* rights which he himself derides. On the contrary, not only is it possible to conceive of moral rights varying in character and degree with social progress, but many such are recognised by jurists of every school,¹ as well as in popular language. Of the privileges and securities to which the name of “rights” has been given, a very few—such as the right of personal liberty, and the right of self-defence—have been designated, perhaps not very philosophically, rights of nature. Others are known as legal rights; and this class includes and contains so large a proportion of moral rights in a well-governed country, that it is seldom necessary to look beyond them, except for purposes of legislation. For these purposes, however, it is quite essential that we should realize the existence of rights, both civil and political, distinct from so-called natural rights, and paramount to legal rights, which may properly be termed moral rights. Among the civil rights of this class is that of every citizen to protection from the State; among the political rights of this class is that of every nation, in an United Kingdom like our own, to a share in the Imperial Government. Not even Mr. Lowe would deny that every British subject is “morally entitled” to be protected, or (which is the same thing in other words) that the State is morally bound to protect him against violence or aggression, whether or not our present laws are effectual to that end. Not even Mr. Lowe

¹ Bentham himself fully recognises rights of this kind, though he prefers to describe them as ends, or objects, of legislation. One of these ends being equality, and another security, in the possession of property, he tells us explicitly that where these two principles conflict, “equality ought to give way.”—Dumont’s Bentham, *Principes du Code Civil*, part i. ch. xi.

would venture to dispute the moral claim of Ireland to come within the pale of the Constitution, if she had no representatives in the Legislature. Then why should he protest that a similar claim on behalf of an unrepresented class cannot be entertained without acknowledging the *à priori* rights of man? Let him deny, if he will, the existence of any rights but legal rights,¹ and brave, if he dare, the consequences of pushing the utilitarian creed to extremes; but let him not practise on the English dread of *à priori* rights, to frighten less acute reasoners into embracing it.

There may, therefore, be such a thing as a moral claim of non-electors to the franchise; it remains to consider how its validity, in any given case, is to be determined. This question really involves no abstruse metaphysical inquiry into the origin of rights. The origin of rights is one thing; their validity is another. The former depends on the authority which is supposed to sanction them; the latter depends on the *forum* in which they are pleaded. The right of personal liberty itself is not valid, though doubtless it ought to be, in countries where slavery is part of the social system. The right of a man to the fruit of his own labour would not be valid in a community where all property was held in common. Hardly any moral rights to political privileges are valid in Russia, not only because such privileges are not in harmony with established Russian institutions, but also because the people have not yet acquired the habits and ideas to which they correspond. None but legal rights are valid in any court of law; and of legal rights, those called equitable are not valid in our courts of common law. What rights, then, may be pleaded as valid in the English Parliament? All those, and only those, which can be warranted by principles already consecrated by a general consensus of the legislature and the nation. The ultimate appeal is to the public conscience—to that code of political morality which, however

¹ Mr. Lowe would probably not shrink from accepting this challenge, if we may judge by the following passage:—"Thus the words 'right' and 'justice' have a perfectly clear and defined meaning when applied to the administration of justice under a settled law, but are really without meaning, except as vague and inappropriate metaphors, when applied to the distribution of political power."—Preface to *Speeches and Letters*, p. 5.

formed, tacitly governs the course of legislation, and has found an imperfect expression in certain great constitutional maxims. To assert that every duly-qualified citizen is morally entitled to come within the pale of the Constitution, unless it would be dangerous to admit him, is merely to assert that his admission would be in accordance with some article of this code, while his exclusion violates it. Let it be supposed, for the sake of argument, that one of these received maxims, sound or unsound, is that representation should be proportioned, at least approximately, to taxation. If, then, it could be shown that a large share of the national burdens is borne by the excluded class, their moral right to a large share of representation would be, *primâ facie*, established. Suppose, again, that another maxim, approved by the moral sense of the nation at large, affirms that legislative power in a representative government is derived from the consent of the whole people, expressed or implied. If, then, it should be proved that a numerous and increasing section of the excluded class is no longer content with the position assigned to it, openly claims the franchise, and threatens to withdraw its consent to the state of tutelage in which it has so long acquiesced, this circumstance would, so far, greatly enhance the moral right in question. But we may go further. All existing qualifications are grounded on a similar assumption that a certain degree of wealth or education constitutes, not an *à priori* right, but a "moral right," to representation. To impugn the moral right of an unrepresented class, however strong its credentials, is to impugn the moral right of the present electoral body, and to justify the former in believing that nothing but the law stands between itself and its enfranchisement. This is what is meant when the franchise is described as "a debt" due to the working classes, or as a "reward" earned by their virtues. Such expressions are obviously metaphorical, but not more so than a "balance" of classes. Phrases which represent the franchise as a mechanical instrument, or a chemical ingredient, for the production of a predetermined result, are quite as capricious, quite as indefinite, and quite as likely to convey a false impression, as those which Mr. Lowe so unjustly disparages. The difference is, that material illustrations are far beneath

moral illustrations in the dignity of the sentiments which they suggest.

III. Having thus examined the reasons for discarding motives of justice, and abandoning ourselves to motives of expediency, in the distribution of legislative power, we find them wholly untenable. The utilitarian argument, as developed by Mr. Lowe, is in effect an argument against the first principles of political liberty; the moral argument, as limited by Mr. Gladstone, is defensible on every ground consistent with those principles. Were the antagonism between the apparent interests of the nation and the legitimate claims of our fellow-citizens as direct as Mr. Lowe conceives it to be, we should require stronger proofs than he has adduced to justify us in absolutely sacrificing the latter to the former. Happily, we are placed in no such dilemma. The statesman, though actuated by a sense of justice, and not deaf to the plea of moral right, will not therefore shut his eyes to consequences. He will admit, with Mr. Gladstone, that "political danger," if real and urgent, may render, not the rejection, but the postponement, of demands otherwise irresistible, a duty no less than a necessity. If, then, Mr. Lowe can make good his contention upon this third issue—if he can show that a moderate reduction of the franchise, such as was proposed by the Government last session, would entail real and urgent political danger—we may still be compelled, while denying his premisses, to accept his practical conclusion.

It must be confessed that no pains have been spared by Mr. Lowe to make this side of his position impregnable. He has ransacked history, and laid under contribution all contemporary experience, in the attempt to demonstrate that it would be an act of downright suicide, and little short of treason, for Parliament to admit but one-tenth of the unrepresented class within the pale of the Constitution. But what is the process whereby he professes to have achieved the demonstration of this astounding paradox? It may be described in a single sentence. He lays it down as a postulate that such a measure would be "a step in the direction of Democracy;" and he constructs a hideous ideal of Democracy, by combining all the worst features of ancient city-governments with all the worst features of modern

republics and empires in which universal suffrage prevails.¹ It is not a more or less popular representative government, but this Democracy, which is tyrannical at home and aggressive abroad, the enemy of all superiority, and the slave of every selfish prejudice. It is Democracy which prostitutes itself to the arts of demagogues and the bribes of millionaires, which makes the ignorant majority omnipotent, and teaches them to use terrorism, in the last resort, to silence and crush the educated minority. It is Democracy which concentrates all power in committees of the legislature, which paralyses the executive power, which dwarfs statesmanship, and which cannot even tolerate the independence of the judicial bench.

Now, supposing this to be no caricature of Democracy, or the government of the few by the many, and supposing also (which is surely a supposition no less violent) that an equally revolting picture of oligarchy, or the government of the many by the few, could not be produced by a similar method, it still remains to be proved that a reduction of the borough franchise from £10 to £7 would conduct us to these dismal results. At first sight, it would appear that a measure which leaves the prerogatives of the Crown unimpaired, the House of Lords in possession of a legislative power vastly multiplied by social influence, and the great majority of the people still unrepresented, falls very far short of establishing a Democracy. To bridge over this logical chasm, however, Mr. Lowe again has recourse to mechanical imagery. Once quit the safe level of a £10 franchise, and we are launched, according to him, on an inclined plane, whose ever-steepening gradients will hurry us forward helplessly with increasing velocity, till we plunge into the Democratic abyss. On that treacherous slope he assures us that no courage or skill will avail to stop us, for "the thing is fated," and the power of resistance, on which he now relies, will have passed away for ever.²

By the judicious employment of metaphors like these, rather

¹ See especially, the Speech of April 26, 1866, *Speeches and Letters*, pp. 145-166.

² *Speeches and Letters*, pp. 50-52, 140, 200, 201. Pref., p. 13. Speech of February 26, 1867.

than by any analysis of facts, Mr. Lowe succeeded in convincing no small proportion of the House of Commons that in giving up the £10 franchise they would be resigning themselves to Democracy. We have now to consider, in a calmer mood, whether the conviction thus produced will bear the test of a retrospective scrutiny.

In the first place, we may well ask what is the evidence, and what the source, of this mysterious law, beyond the control of future legislatures, which makes it impossible to go so far as may seem desirable without going further. We might be tempted to suspect that Mr. Lowe borrowed the idea of it from M. de Tocqueville, a writer to whom his obligations have been greater than is generally known. But Mr. Lowe himself emphatically repudiates the fatalism, which he imputes to M. de Tocqueville. "M. de Tocqueville assumed that Democracy was inevitable, and that the question to be considered was, not whether it was good or evil in itself, but how we could best adapt ourselves to it. This is *ignava ratio*, the coward's argument, by which I hope this House will not be influenced. If this Democracy be a good thing, let us clasp it to our bosoms; if not, there is, I am sure, spirit and feeling enough in this country to prevent us from allowing ourselves to be overawed by any vague presage of this kind, in the belief that the matter has been already decided upon by the fates and destinies in some dark tribunal in which they sit together to regulate the future of nations." It is quite true that M. de Tocqueville regarded Democracy, in his own sense, as inevitable; not, however, because the fates had so decreed it, but for the far better reason that civilized society, as he supposed, was deliberately moulding itself into the democratic type. Mr. Lowe's view differs from M. de Tocqueville's chiefly in this respect—that he thinks it possible to check the democratic spirit of the age, and so to thwart destiny, by standing still now, though impossible if the downward impetus be once given.¹ Which is the more philosophical

¹ Mr. Lowe would have done more justice to M. de Tocqueville, whose opinion as to the effect of meddling with the electoral qualification he quotes so emphatically (Pref. to Speeches and Letters, p. 13), if he had referred to some passages of a different tenor in the works of the same author. Such are those in which M. de

of the two must be a matter of opinion, but Mr. Lowe's is certainly not the more statesmanlike. If it is absurd to do what appears to us wrong, in deference to political necessity, it is surely not less absurd to abstain from doing what appears to us right, because we anticipate that it will place our posterity at the mercy of the same political necessity.

At all events, such a warning comes more than thirty years too late. It was the Reform Bill of 1832 that commenced the fatal descent towards Democracy by extinguishing the old customary franchises of boroughs, and substituting the £10 household suffrage, which is the object of Mr. Lowe's unqualified respect. The danger of yielding to democratic tendencies might then be urged, and was actually urged, with great effect; it has now ceased to have any meaning. Finality was justly exploded within a very few years after that memorable settlement, and everyone now acknowledges that each successive generation has the sole right, as it assuredly has the sole power, of discharging the responsibilities which devolve upon it.

Let us, then, shake off the notion that we can be a Providence to those who come after us, and we shall find less difficulty in reducing the shadowy outline of "Democracy" to its true proportions. What is "Democracy," after all? It is an ambiguous term, which sometimes denotes a certain form of Government, and sometimes a certain state of society. A democratic form of Government may exist, as in the Southern States of America, where the state of society was essentially aristocratic; a democratic state of society may exist, as in France since the Revolution, where the form of Government is oligarchical or despotic; but in either case there will be a perilous want of cohesion in the community. A clear perception of this distinction will be of great service in laying the ugly spectre conjured up by Mr. Lowe. No one can fail to see that in England, as elsewhere,

Tocqueville contends that, while all the faults of democracy are patent, many of its virtues are latent; that, in these days, the most effectual, if not the only, means of reviving public spirit, is to associate the whole people in the government; that, in America, the dominant majority consists, for the most part, of peaceable and patriotic citizens; and that, in England, liberal as our aristocracy is, the good of the poor has been constantly sacrificed to that of the rich.—*Democratie en Amérique* (Bruxelles, 1837), vol. ii. ch. 1 and 6.

there is a tendency towards what De Tocqueville calls an equality of social conditions. This tendency, though no more inevitable than any other moral phenomenon, is one which a legislator must accept as a fact, because it is almost independent of legislation. The real question is, whether our representative system should be from time to time adjusted by the growing requirements of our social development, or should be employed as a barrier to retard its progress. Considering how frail such barriers must be, against the giant forces daily struggling to undermine them, the question surely answers itself. The nation, speaking and acting through the national Legislature, cannot safely treat Democracy as something outside itself, or retain a form of Government more aristocratic than is consistent with the social framework on which it is built. Those who deplore the spread of democratic sentiments and habits must combat them, as they would combat religious error, by the influences of literature and personal example. To combat them by upholding political institutions which society has outgrown, is to create one of those fatal disruptions in the body politic which bring about revolutions.

The further question whether progressive enfranchisement, apart from its being "a step towards Democracy," involves greater evils than it purports to remedy, is beyond the scope of our present subject. That a Reformer's sense of justice must be tempered with prudence has already been conceded. That prudence counsels a postponement of Reform cannot be conceded for a moment. It cannot be taken for granted that the great mass of our countrymen are hostile to our Constitution, nor, upon that supposition, is it by any means obvious that its defence would be weakened by subtracting a portion of the besieging force and adding it to the garrison. As we cannot expel from our population those elements which form the strength of Trades Unions, it may well be less dangerous to incorporate them in our representative system than to leave them outside it. These and similar considerations are quite sufficient, if not to shift the burden of proof from the advocates to the opponents of progressive enfranchisement, yet at least to neutralize any Conservative presumption adverse to it.

Were it necessary to reinforce them by the exposure of inconsistencies in the practical objections urged against it, ample materials could be found in the speeches of Mr. Lowe himself. It was he who, after protesting that a measure enfranchising a few hundred thousand artisans would disturb the balance of classes and inaugurate the reign of Democracy, strove elaborately to prove that a much larger number might acquire the franchise now, if they would but practise a little self-denial.¹ It was he who, after foreshadowing the selfish and unscrupulous tyranny of numbers, attributed to the working classes, almost in the same breath, an entire indifference to the success of a measure which he described as an approach to that very consummation.² It was he who, endorsing the transparent fallacy that property, with all the countervailing advantages at its command, would be "swamped," and even "disfranchised," by its possessors being placed in a minority, nevertheless pointed, again and again, to the ascendancy of millionaires as one of the worst consequences to ensue from an extension of the suffrage.³

It is not, however, by such inconsistencies as these that the incurable weakness of Mr. Lowe's argument is to be measured. It is to be measured by the imperfect ideal of political utility which he presents to us, by the distorted conception of moral right which he contrasts with it and offers as the only alternative to it, by his failure to appreciate the essential harmony of the two principles when correctly applied, and by his confused apprehensions of a coming "Democracy" now or never to be averted. Since the superstructure cannot be stronger than its foundation, the policy which rests on arguments so erroneous must be rejected with it. It is well for the country that it has already been rejected by the House of Commons itself. We may admire these speeches as brilliant efforts of Parliamentary eloquence, we may profit by the many lessons of political wisdom contained in them, we may even prize them as contributions of great value to the history and literature of Reform, but no such feelings can be allowed to obscure or silence our conviction that counsels more delusive or more dangerous were never submitted, at a most critical juncture, to a deliberative assembly.

¹ Speeches and Letters, p. 46-49.

² Ibid. p. 81.

³ As, for instance, Speeches and Letters, pp. 80, 196, 210, 211.

For these counsels are deeply imbued with that exclusive spirit, the very soul of oligarchical statecraft, which has so often proved the ruin, not of governments only, but of nations. The vitality of all political organisms is in proportion to their capacity of adaptation to altered conditions of existence. It was because their philosophers were ignorant of this secret, and their statesmen could not rise above the traditions of a glorious past to the idea of Panhellenic unity, that the Greek Republics, which had defied Persia in arms, and still maintained a peerless supremacy in all the arts of civilization, fell helplessly before Macedonia and Rome. It was because her emperors were not possessed by truly imperial views, and invoked too late the life-giving virtues of self-government, that Rome herself, unable to assimilate the vast populations which she had conquered, and unequal to the exigencies of that "ampler day" then dawning upon Europe, was at last weighed in the balances and found wanting. History in every page, down to the very latest, records the same testimony for the warning alike of conquering races and of governing classes. It is not degeneracy, moral or physical, that directly causes the fall of empires and the decay of institutions, but the consequent failure of that insight into the present and that foresight of the future which inspired their original founders. If the stability of our own Constitution has been the marvel of modern times, it is chiefly because it has grown with the growth, strengthened with the strength, and expanded with the expansive energies of the English people. Let it once be stereotyped into a permanent form, and prove itself incapable of further development, and it will lose that which is the essential principle of its life. We are now entering, with the rest of Europe, consciously or unconsciously, upon a new order of things—an order of things in which, come what may, Labour must henceforth occupy a far higher position than heretofore. Not to recognize the rise of this irresistible power by a timely extension of our representative system, is to break the spell which has preserved its identity through the vicissitudes of six centuries; and, with it, to imperil the destiny of constitutional government.

FIVE YEARS OF LIBERAL POLICY AND CONSERVATIVE OPPOSITION.¹

1874.

WHEN the Parliament of 1868 first assembled for business on the 16th of February, 1869, Mr. Gladstone found himself supported by a clear majority of 120. Never since 1831 had a Government received so decisive an assurance of national support, or entered upon office under so definite an obligation to carry out a reforming policy. During the political calm which preceded the death of Lord Palmerston but few important measures had been initiated, and fewer still had passed into law. The energies of the short Parliament elected in 1865 had been mainly engrossed by debates on the Franchise question, and a series of extraordinary events had retarded the revival of a popular demand for other domestic reforms, constantly advocated by the Liberal party. In the year 1866, public attention was concentrated successively on the ravages of the Cattle Plague, the Jamaica Insurrection and the subsequent Inquiry, the Austro-Prussian War, and the Financial Crisis in the City of London. During the year 1867 the Abyssinian War, the Luxembourg Negotiation, the Sheffield Outrages, and the sudden outbreak of Fenianism in England, diverted the mind of Parliament from various legislative projects announced in the Queen's Speech, and the Reform Act was the single achievement of the session. That of 1868 was almost wholly consumed in supplementary legislation, such as the Scotch and Irish Reform Acts, the Election Petitions Act, and the Boundary Act, in abortive discussions on the Foreign Cattle Market Bill, and in the great debates which resulted in

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the adoption of Mr. Gladstone's resolutions on the Irish Church. The dissolution which followed in the course of the same autumn closed this legislative interregnum, and gave the new electoral body a full opportunity of judging between Liberal principles, as represented by Mr. Gladstone, and Conservative principles, as represented by Mr. Disraeli.

The fate of the Irish Church was the first issue, but it was by no means the only issue, on which the verdict of the constituencies was challenged at the general election of 1868. Mr. Gladstone's address to the electors of South-West Lancashire expressly invited the future House of Commons to undertake the redress of other Irish grievances, a reduction of the public charges, the development of primary education, and the improvement of county administration, while he emphatically pointed to "a more vigorous march, both of legislative and administrative policy," as the legitimate consequence of Parliamentary Reform. Mr. Disraeli took a still more ominous view of the distinction between his own policy and that of Mr. Gladstone, which he described as involving wholesale confiscation of property, and fraught with peril to religious liberty. But the real extent of the responsibility cast upon the Liberal Government at the close of 1868 is not to be measured either by the declarations of Mr. Gladstone or by the warnings of Mr. Disraeli. The Liberal party, as it had announced in the press and on the hustings, was firmly resolved to use the new power derived from household suffrage in clearing off long arrears of remedial legislation, and no constituency which returned a Liberal member was ignorant of this resolution. The reformed Parliament was expected, if not pledged, to deal with many subjects, besides those indicated in Mr. Gladstone's address, and the Government, commanding a majority of 120, could not have disappointed these expectations without forfeiting the confidence of its followers and of the nation at large. It was no longer possible to postpone reforms in the laws affecting trades unions, in the laws regulating the descent and transfer of landed property, in the system of judicature and of legal procedure, in the rating system, in the licensing system, in the application of educational endowments, and in army organization,—reforms of

which the necessity had long been generally acknowledged by the Liberal party, and which Lord Palmerston's Government had been not unjustly blamed for neglecting. Above all, Mr. Gladstone's administration was deeply committed, as well by the known convictions of its leading members as by the prevailing sentiment of the country, to a policy of peace and conciliation, though not of absolute non-intervention, in the conduct of foreign affairs.

The general election of last February, resulting in a large majority for the Conservative party, must be regarded as marking a decided change in the political temper of the constituencies. According to Mr. Disraeli, the English people, tired of incessant and harassing activity on the part of the legislature, desired "a little more energy in our foreign policy, and a little less in our domestic legislation." If this language meant anything, it meant that, under the present Government, Parliament would be invited to concern itself less with its own affairs and more with those of its neighbours. Whether such a change of policy would be deliberately approved by the good sense of the country, or would hasten the inevitable revival of Liberal opinion, it would be premature to enquire, for, as yet, there are no signs of its being seriously intended. Happily for himself, and happily for his countrymen, Lord Derby has shown no more "energy" in his foreign policy than Lord Granville, while it must be confessed that no want of energy in domestic legislation can be imputed to a ministry which, as Mr. Disraeli now boasts, is pushing through seven bills of primary importance, and ten others of secondary importance, all of which disturb, for the better or for the worse, existing arrangements and expectations. In the meanwhile, it may not be unprofitable to consider briefly how far the engagements of the late Government were fulfilled during its five years' tenure of office, what beneficial measures were passed either at its direct instance or with its hearty support, and to what causes its occasional shortcomings and ultimate decline in popularity may properly be attributed.

I. The enormous time and labour bestowed on Irish questions by the Parliament of 1868 will doubtless give it a distinctive place in constitutional history. During the session of

1869 the House of Commons employed twenty-one sittings in discussing the Irish Church Bill alone; twenty-six were absorbed by the Irish Land Bill in the session of 1870; and even the Irish University Bill of 1873, though it never reached the stage of "Committee," occupied four whole nights, besides those afterwards spent in carrying Mr. Fawcett's Bill for opening Trinity College. If we add to this account the number of hours devoted to debating the Irish Peace Preservation Act, Irish outrages, Irish schools, Irish railways, Irish representation, Irish fisheries, Irish juries, and other matters of purely Irish interest, we may, perhaps, be disposed to wonder that so large a surplus of energy was left over for imperial legislation.

The principle of the Irish Church Act and the Irish Land Act was affirmed by such overwhelming majorities in the House of Commons, and has been so decisively approved by public opinion, that no Government or party would venture to propose a reversal of it. Still, attempts are often made to discredit the late Government and the Liberal party by asserting that Mr. Gladstone expressly bound himself to adopt the system of governing Ireland according to "Irish ideas." No assertion could be more unfounded or delusive. Mr. Gladstone, it is true, spoke of "a regard for Irish interests and feelings" as one of several considerations which ought to govern the action of Parliament on the Irish Church, but neither he nor the Liberal party in England ever proposed or manifested a willingness to be guided by "Irish ideas" in the sense here intended. On the contrary, it may be stated, with confidence, that no one of the great Irish measures introduced by the late Government bears the impress of these ideas, or was accepted without murmuring, by their Irish supporters. The Irish Church Act was only palatable to Irish Catholics, so far as it destroyed the vast stronghold of Protestant ascendancy. The provisions whereby most liberal compensation was secured to existing incumbents and curates, whereby landlords were enabled to buy up tithe-rent-charges by imaginary payments, and whereby all the parish churches were reserved for the Anglican Communion, were assuredly not inspired by Irish ideas, nor can there be a doubt that, if Irish ideas had predominated, a large part of the Church revenues

would have found its way into the hands of the Roman Catholics. The same may be said of the Land Act. It was no doubt an Irish idea to grant compensation for disturbance, as distinct from claims for improvement, but it was an idea justified in the eyes of Englishmen by the very peculiar history of Irish land-tenures, and the Government firmly resisted every attempt to push it beyond the limits of equity. Neither fixity of tenure nor the ingenious device of Parliamentary tenant-right, by which it was sought to establish fixity of tenure under another name, found any favour with Mr. Gladstone or his colleagues, and the settlement finally effected tends rather to place Irish tenancies on the English basis of contract than to perpetuate the Irish basis of custom. For a while, a great outcry was raised against the courts entrusted with the judicial administration of the new system, whose decisions were alleged to be so conflicting as to destroy all sense of security. This allegation was carefully tested, and virtually negatived in 1872, by a Committee of the Upper House mainly composed of Irish landlords, and little more has since been heard of it. Of the Irish University Bill it is enough to say that, whatever its faults may have been, it was a thoroughly honest attempt to bring the highest education within the reach of all Irishmen, in such a manner as to reconcile the claims of academical independence with those of religious liberty. Nor should it be forgotten that, if it was disfigured by one or two comparatively trifling concessions to the prejudices of Irish Catholics, it was contemptuously rejected by the Irish Catholic hierarchy as penetrated by ideas the very reverse of their own. Former Governments had been in the habit of negotiating beforehand with this irreconcilable body, to ascertain what compromise would satisfy them. Mr. Gladstone declined to deal with a great national question by way of compromise, and while he thus shipwrecked the Irish University Bill, he established a sound and statesmanlike precedent for the future policy of the Liberal party towards Ireland.

The more closely the Irish Church Act, the Irish Land Act, and the Irish University Bill, are examined and compared with rival schemes, the more clearly will it appear that every one of them was framed in a spirit of even-handed justice, with a

single eye to national interests and with no unworthy eagerness to catch Irish votes. While the Land Bill was still under discussion, the Peace Preservation Act was vigorously pressed forward against the earnest protests of the so-called National party. It was re-enacted and greatly extended by the so-called Westmeath Act, passed in 1871, which enabled the Lord-Lieutenant to suspend the Habeas Corpus Act, at his own discretion, in Westmeath and the adjoining districts. This second act, having proved highly efficacious in repressing crime, was continued by a third act, passed in 1873, notwithstanding the persistent opposition of the same party, now reinforced by Mr. Smyth and Mr. Butt. The effect of the Westmeath Acts has been hardly less than magical in restoring the security of life and property in that county, in Meath, and in part of King's County, to which alone they have been applied; yet a very small number of persons have been arrested under them, and, probably, no one outside the Riband conspiracy inwardly desires their repeal. It is, however, palpably absurd to credit these acts with the good order which now prevails in other parts of Ireland, to which they have not been, and could not be, applied. Nor can this be attributed, in any considerable degree, to the Peace Preservation Act of 1870, the fact being that, while most Irish counties are proclaimed under the old Peace Preservation Acts, very few remain "specially proclaimed" under the act of 1870. If, therefore, the plague of agrarian outrage has at last been stayed in Ireland, the cause must be sought, not so much in the coercive measures which the late Government had the courage to adopt, as in the remedial measures which formed the root of their Irish policy.

But these are by no means the only cases in which that policy has already borne good fruits, which are inherited by the present Government, and may be expected to become more abundant year by year. For instance, the Irish Juries Act of 1871, putting an end to the arbitrary discretion formerly exercised by the sub-sheriff in the preparation of jury lists, cannot fail to increase the confidence of the people in the administration of justice. Of course, arguments were not wanting to show that, unless the jury lists were carefully manipulated, it would

be impossible to secure honest verdicts against popular criminals. But the late Government wisely perceived that no argument of this kind should be allowed to outweigh the patent evils and abuses inseparable from a system of packing juries, or the advantage of bringing home a sense of judicial responsibility to all classes in the community. Similar counsels prevailed, and were attended with equal success, when the Irish militia was called out for annual training, in defiance of the sinister predictions which had daunted so many previous Governments ; and, again, when the Party Processions Act was repealed, notwithstanding the recent occurrence of party riots in various parts of Ulster. The act which extended the substitution of Provisional Orders for Private Bills in Ireland may be taken as another type of the useful but unobtrusive reforms effected by Liberal policy. During a period of thirteen years, ending with 1870, the Corporation of Dublin was found to have expended nearly £20,000 in the promotion of Waterwork Bills alone, and the Parliamentary expenses of one Irish railway amounted to full twenty per cent. on its whole capital. Under the new system of Provisional Orders, on the contrary, the town of Belfast was able to get a most important act passed at a total cost of a little more than £50, to the great relief of its municipal funds.

In these last measures, it is true, the late Government was supported by Irish members on both sides of the House, and, so far, may be supposed to have deferred to Irish sentiment, but it would be easy to cite examples of conscientious resistance to Irish sentiment, where a weaker Government would probably have given way. In refusing to augment the salaries of Irish civil servants without preliminary enquiry, in declining to subsidize the Irish fisheries, and in opposing repeated motions for the purchase of Irish railways by the State, Mr. Gladstone may have been right or wrong, but, at all events, he manifested no disposition to sacrifice economical principles for the sake of making things pleasant in Ireland. A like fidelity to public duty prompted him to make an unqualified declaration against the Home Rule movement when it was rapidly spreading in Ireland, and when its leaders might easily have been propitiated by a few ambiguous phrases of friendly censure. The single

instance in which the late Government was plausibly charged with subservience to popular clamour in Ireland was the release of the Fenian prisoners. Opinion has always been much divided among English Liberals upon the expediency of this act, which, however, admits of being defended on very substantial grounds. The real question to be decided by the Government was, not whether political conspirators, as such, deserve any remission of punishment, but whether more good or harm would be likely to result from the remission of punishment in this particular case. On the one hand was the more obvious risk of encouraging Irish juries to find reckless verdicts of acquittal in prosecutions for treason-felony; on the other, was the less obvious fact that each Fenian prisoner was becoming a more powerful apostle of treason in his dungeon than he could be if set at large. Certainly the immediate effect of their release was to break up the dangerous organization carried on under the form of amnesty-meetings, and the continued detention of those imprisoned for other crimes than treason-felony indicated the line between politic clemency and culpable weakness.

If the general Irish policy of the late Government be tested by tangible results, the Liberal party has no cause to be ashamed of it. It has compelled the Anglican Church of Ireland to rest on her own inherent vitality instead of on State patronage, but it has not apparently reduced either the number of her members or the influence of her ministers. It has visibly increased the prosperity of Irish farmers, and demonstrably checked Irish agrarian outrage, but it has not lowered rents, nor diminished the selling value of land, so far as can be ascertained from the records of the Landed Estates Court. That it has mitigated, rather than aggravated, political excitement, may be inferred from the remarkable fact that, whereas troops were stationed in every borough in Ireland, except one, during the election of 1868, no troops were sent by order of the Government to any Irish borough during the election of 1874, and no serious disturbances occurred in consequence of their absence. That it has not been appreciated as it deserved by the Irish constituencies, must certainly be allowed, yet even Irish constituencies showed their preference of Liberal to Conservative policy, and the

province of Ulster, so far in the van of Irish civilization, recorded at least an emphatic protest against any reversal of it. It has not indeed quenched, and no reasonable man expected it to quench, the instinctive hereditary disaffection, of which the source lies deep in the restlessness of Irish character, but which centuries of misgovernment at once intensified and invested with a halo of patriotism. But it has swept away the last tangible Irish grievance, and left agitators without a definite object, without an intelligible watchword, and without the smallest hope of rousing either the priests, or the farmers, or the shopkeepers, or any other influential class, into rebellion, either veiled or unveiled, against the British crown. If it be objected that the Home Rule movement is a product of Liberal Policy, it must be remembered that when Ireland was last governed by a Conservative Viceroy, Fenianism was rampant, and the Habeas Corpus Act was suspended over the whole country. Compared with Fenianism, the recent demand for Home Rule is a constitutional agitation, the weakness of which is realized by none so fully as by its leaders. It might be truly formidable if the Irish Church were still maintained by Great Britain, and Irish tenants were still at the mercy of their landlords; it is already harmless, and will soon be obsolete, because there is nothing to be gained by it which honest men desire to promote.

II. The next in order, and perhaps the first in importance, of the reforms taken in hand by the Parliament of 1868, under the guidance of Mr. Gladstone's administration, was the reform of National Education in all its branches. This great design as yet remains incomplete, but the foundation has been well laid in the English Education Act of 1870, in the Scotch Education Act of 1872, and in the Endowed Schools Act of 1869, aided by the Agricultural Children Act of 1873, by the extension of the half-time system in factories and workshops, by the abolition of University Tests, and by the action of the Public Schools Commission. The Act of 1870, it is true, has provoked much hostile criticism from the Nonconformist point of view, and has unhappily contributed to foster divisions within the Liberal party, but it will scarcely be denied that it has produced benefits of inestimable value, from a national point of view. However

they may have been obscured by disputes about minor points, its broad principles are, the paramount necessity of bringing primary education within reach of every English home, whether by means of voluntary agency or by the action of School Boards; the expediency of cautiously but progressively introducing compulsory school attendance, and the duty of maintaining—not perfect religious equality, for this is impossible—but perfect religious liberty in schools aided by the State. These principles have now been tried by the practical experience of three years, and the official report of the Education Department for the present year is the best evidence of their general results.

It appears from this report that, whereas in 1869 the school accommodation in schools receiving annual grants from the Government was only sufficient for 1,765,944 children, or 8·84 per cent. of the whole population, it was so extended by 1873 as to be sufficient for 2,582,549 children, or 11·05 per cent. of the estimated population. It was calculated, moreover, by Lord Sandon, in moving the Education Estimates, that before July, 1875, all the schools required for England and Wales would either have been erected or be in course of erection, supplying accommodation for 4,000,000 scholars—500,000 in Board Schools, 2,500,000 in other schools receiving annual grants, and 1,000,000 in schools not receiving annual grants, but passed as efficient. Lord Sandon further stated that no less than 10,494,507 persons are already within the jurisdiction of School Boards, and that by the middle of next year about one-half of the entire population will probably be included in School Board districts. Between the end of 1869 and the end of 1873, the number of pupil teachers had risen, according to the report, from 12,842 to 25,126, and that of certificated teachers from 12,027 to 16,735. The average attendance in aided schools had increased, during the same interval, from 1,153,572 to 1,528,453 and 302,689 of these new scholars had been added since 1870. Altogether, besides the children in non-inspected schools, there were, in 1873, 2,218,598 names of scholars on the registers of inspected schools, of whom 1,847,216 were present on the day of inspection.

Of these children, not one was or could be receiving any

religious instruction to which its parents objected, those in voluntary schools being protected by a stringent conscience-clause, and those in Board schools by a prohibition of dogmatic religious teaching, in addition to a stringent conscience-clause. So far, therefore, as the danger of proselytism is concerned, the Education Act of 1870 secured all for which educational reformers had been vainly contending for many years. It is in respect of school management that it has been found to operate somewhat unequally, in a direction adverse to Nonconformist influence, chiefly by virtue of the provisions which allowed the supporters of denominational education six months' grace to apply for building grants, with a claim to increased annual grants from the Privy Council. As for the 25th clause, which has since been the subject of so much angry controversy, it was passed, as is well known, without a protest, no one foreseeing the significance which might be attached to it. In estimating this significance, it should always be remembered that it applies to no district in which there is not a School Board, to no children except those whose parents are too poor to pay for their schooling, and to such children only at the discretion of the Board. On the other hand, it must not be disguised that it may be perverted by a sectarian Board into a means of subsidizing denominational schools, and that in one large town more than £2500 has actually been paid under it in the course of a single year. Probably, notwithstanding the late vote of the House of Commons, the 25th clause will ere long be abandoned or modified by consent of both parties, and when this difficulty is overcome, the Education Act of 1870 will rank among the most honest and practical efforts of constructive statesmanship in the statute book. A few years hence, scarcely any one will care to enquire whether it was intended to supplement, or gradually to supersede, the system which it will then have entirely transformed; it will only be remembered that it called forth a degree of educational activity previously unknown, broke down the religious difficulty, so far as it kept children away from school, and, without quenching voluntary zeal, or overtaxing the patience of the ratepayers, established the right of municipal control over the education of the people.

By the Endowed Schools Act of 1869, a multitude of educational endowments were subjected to revision by an independent Commission, with a view of not only making them more generally useful to the middle class which had before profited by them, but also of opening them, in some degree, to competition among boys educated in the elementary schools. This attempt to raise the character of middle-class education, and to supply a missing link between the highest and lowest grade of schools, was destined to encounter a most determined and organized opposition. The instinctive prejudice of Conservatism in favour of arbitrary patronage, as against promotion by merit, a traditional reluctance to interfere with founders' wills, and the spirit of local self-interest, constituted the elements of a formidable defensive alliance, which first exhibited its full strength in the session of 1871. The Act had reserved to either House of Parliament the power of putting its veto on any scheme proposed by the Endowed Schools Commissioners, and this power was exercised by the House of Lords, at the instance of Lord Salisbury, to suppress the Emmanuel Hospital Scheme. From that moment the action of the Commission was effectually crippled. A modified settlement of the Emmanuel Hospital Schools, though opposed in the House of Commons, was ultimately adopted two years later, but it became manifest that no scheme founded on the same enlightened principles as the original Emmanuel Hospital Scheme would be allowed to pass the House of Lords. It appears, from a recent statement of Lord Lyttelton, that seven had been actually frustrated by the House of Lords up to the end of May, 1874, and in 1873 Lord Salisbury carried a provision virtually condemning the Commission to extinction at the close of the present year. Nevertheless, one hundred and eighty-five schemes have come into legal operation, and though Mr. Forster was compelled to withdraw his plan for the future examination of Endowed Schools, the most essential features of it have since been embodied in the joint examination system recently adopted by the Universities. Meanwhile, exhibitions have been established by the London School Board, as well as by private individuals, enabling promising scholars to rise by merit from primary to

secondary schools, and the whole education of the country has received a permanent impulse from the resolute initiative taken by the late Government.

The history of the University Tests Act is peculiarly instructive, as illustrating both the moderation of Liberal Policy and the perverse obstinacy of Conservative opposition on a question involving the national character of the Universities. In the year 1863, a bill had been introduced by Mr. Bouverie, in accordance with a memorial from Cambridge, for relieving College Fellows of their statutory obligation to make a declaration of conformity. This bill was read a first time, after a division, but was thrown out in the following year by a majority of 157 to 101. Another bill for throwing open Oxford degrees, not completely, but only to the same extent as Cambridge degrees, was introduced by Mr. Dodson, in 1864, but defeated by 173 to 171. In 1865, Mr. Goschen's Bill for throwing open all lay degrees at Oxford, passed the second reading by a majority of 206 to 190, but was carried no further. In 1866, Mr. Coleridge's Bill, identical in substance with that of Mr. Goschen, and Mr. Bouverie's Bill, now re-introduced, were read a second time by considerable majorities, but ultimately withdrawn. In 1867, Mr. Coleridge's Bill, having been extended in committee to Cambridge, passed its third reading in the House of Commons without a division, but was rejected in the Lords by a large majority. Mr. Bouverie's Bill was lost by a small majority on the motion for its third reading. In 1868, the two bills were amalgamated in one, which passed its second reading by 198 to 140, but too late to be effectually passed, in prospect of a dissolution. In 1869 this bill was again introduced by Sir John Coleridge, the Solicitor-General, in his private capacity, and, after repeated divisions, passed its third reading in the House of Commons, but was thrown out in the House of Lords by a majority of 97. It was introduced once more in 1870, on the resolution of a Committee of the whole House, and once more, after repeated divisions, passed its third reading in a slightly extended form, but was met by Lord Salisbury in the House of Lords with a dilatory amendment, and set aside by a majority of 14. At last, in 1871, Mr. Gladstone determined to make it a Government

measure, and gave it the first place in the Queen's speech, whereupon Mr. Hardy declared his intention of not dividing upon it, and it actually reached the House of Lords on the 21st of February. Various amendments, including a new test, were there inserted into it, and would almost have neutralized its effect, but the House of Commons, by Mr. Gladstone's advice, firmly refused either to narrow or to enlarge its original scope, and when it was returned to the Lords, Lord Salisbury's attempt to re-insert the obnoxious amendments was negatived by a majority of 40. Thus ended a nine years' contest for a reform, of which all now recognize the justice and wisdom—a contest of which the final issue could not be doubtful, but in which an immense amount of legislative power was mischievously wasted. It is needless to add that none of the evils predicted as certain to ensue upon the abolition of Tests have yet been realized, and that neither the religious character nor the social peace of the Universities has been in the slightest degree impaired by the admission of Nonconformists to a share of their degrees and endowments. The Royal Commissioners, soon afterwards appointed to enquire into the amount and application of University and College revenues, are still engaged in preparing their report, and it remains to be seen what action the present Government may take upon it. Meanwhile, the institution of such an enquiry was in manifest accordance with the principle of Liberal Policy, which seeks to bring the benefits of University education, as well as of primary education, within the reach of the whole nation, without distinction of class or creed.

III. The same policy underlies the great reforms effected in the Army and Civil Service, by the abolition of purchase, the extension of competitive examination, and the application of discriminating selection to the higher appointments. In these administrative reforms, no less than in the directly educational reforms already considered, one grand principle has been steadily and consistently pursued—the subordination of local interests, personal interests, professional interests, class interests, and all other interests of a partial or sectional nature, to the general interests of the people at large. While the purchase system existed, as Mr. Cardwell showed, no effective

reorganization was possible, and the exorbitant pretensions advanced during the debates of 1871 more than justified Mr. Gladstone's statement that it was necessary for the nation to buy its own army back from its own officers. The Royal Warrant by which this essential object was secured, despite the opposition of the Upper House, was a bold and even high-handed act on the part of the late Government, but it was an act dictated by an exclusive regard for the public advantage, and so decisively approved by the public voice that no attempt was made to obtain a vote of censure upon it in the House of Commons. The order in Council of June 4th, 1870, by which all posts in the Civil Service, except those in the Foreign Office and those requiring professional knowledge, were opened to free competition, has attracted much less attention than it deserves. Former Governments, however averse to favouritism in theory, had been very slow to give up the means of obliging political friends, and Mr. Childers was probably the first minister who ever announced that members of Parliament would only damage their *protégés* by private solicitation. Such a step, once taken, is not to be retraced, and it can at last be said, without irony, that character and ability may command their just reward in the civil and military service of the country.

Two other measures of organic reform call for separate notice—the one, a measure which the leaders of the Liberal party notoriously adopted in deference to a popular demand, the other, a measure for which no popular demand existed, or could be expected, but which all law reformers had vainly advocated for more than forty years. The Parliamentary and Municipal Elections Act, or “Ballot” Act, passed in 1872, after debates protracted over three sessions, was the natural, if not the inevitable, corollary of household suffrage. It was supported by many Liberals, personally averse to secret voting, under a sense of political necessity, and in the belief that it afforded the poorer electors the only sure protection against wholesale coercion and corruption. It was opposed by many Conservatives who had no personal objection to secret voting, under a sense of party loyalty, and in the belief that secrecy would diminish what they regarded as the legitimate influences of property. The experi-

ence of the last general election has gone far to negative both these impressions, and to show that coercion and corruption, skilfully applied for the extortion of promises, are almost as powerful as ever at the polling-booth. On the other hand, the disorder incident to open voting has been very sensibly reduced by the Ballot, and though a smaller number of election petitions has been presented, a larger proportion of those presented has been successful. Upon the whole, then, while the Ballot cannot be reckoned among the unmixed benefits conferred by the Parliament of 1868 upon the nation, it reflects great credit upon the Government which had the courage to do thoroughly what might otherwise have been done evasively, and to reject the many insidious amendments whereby it was sought either to defeat the principle of secrecy or to aggravate its possible abuse. Hardly less energy and address were needed to carry the Judicature Bill of 1873 against the ill-concealed hostility of lawyers on both sides of both Houses. The protest signed by almost the whole Chancery Bar against the proposed fusion of Law and Equity will long remain on record as a monument of stubborn professional Conservatism, and a measure of the difficulties to be overcome by a Government which persistently sets itself to strengthen the weak points in our national institutions, without respect of persons.

IV. It is, however, in respect of social legislation that the Liberal Policy of the last five years has been most harshly judged, and that by critics of two very different schools. It is alleged, on the one hand, that notwithstanding its loud professions of concern for the welfare of the working classes, the Liberal party has done little or nothing to improve their condition, at least in England, during its long tenure of power. It is alleged, on the other hand, that a meddlesome and mischievous activity in domestic reform has been manifested by the Liberal Government, which has thus contrived to alarm and alienate one class after another, without earning the gratitude of any. Perhaps the best mode of dealing with the first of these charges is to consider, very briefly, what the state of the law was five years ago, and what it is now, on two social questions specially affecting the working classes.

When Mr. Gladstone took office, at Christmas, 1868, the whole subject of the relations between Workmen and Employers was very unsettled. Not only were Trade Unions outside the pale of the law in such a sense that a Trade Union could not be recognised as a benefit society, and that it could not be sued for debt; but it was extremely doubtful whether a strike did not, and certain that a threat of striking did, involve a liability to criminal penalties. By the Trade Union Act of 1871, all the vexatious civil disabilities of Trade Unions were swept away, and it was expressly enacted that no member of a Trade Union should be liable to criminal prosecution, for conspiracy or otherwise, because the purposes of his Union might happen to be in restraint of trade. The Criminal Law Amendment Act of the same year purported to define strictly the offences of molestation and obstruction, which had sometimes been construed by the judges as including every kind of coercion, moral or physical, which one person might bring to bear on another. The remedial effect of these provisions was sensibly weakened by an amendment introduced by Lord Cairns in the House of Lords, and more than one subsequent decision has shown that it is still possible for the new act, coupled with the old law of conspiracy, to operate oppressively against workpeople engaged in a strike. Nevertheless, a very important step was gained when the legislature deliberately affirmed the right of workmen to combine for any purpose not actually criminal, and this principle being once established, no Parliament, however reactionary, will permanently maintain any enactment or doctrine of law which may be found to conflict therewith. Again, it had long been admitted that more stringent legislation was needed to enforce due precautions for the safety and ventilation of mines, as well as to prevent the employment of very young boys in underground workings, but no previous Government had succeeded in grappling with the question effectually. In 1870, however, a comprehensive Mines Regulation Bill was introduced by Mr. Bruce, and, though he was compelled to withdraw it for want of time, and a similar fate befel the Mines Regulation Bill of 1871, yet in 1872 two acts were passed whereby the lives of miners and the right of their children to education are secured, as far

as it is in the power of Parliament to secure them. These acts raised the age at which boys could be employed under ground in coal mines from ten to twelve, made it necessary to appoint qualified managers, and threw on the owners and managers a much greater responsibility than before for the observance of the law and the avoidance of preventible accidents. They naturally encountered a desperate and persevering opposition from the representatives of mine owners in the House of Commons, and it required no little fortitude on the part of the Government and of the Liberal majority to withstand the plea, so vehemently urged by rigid economists, that all legislative protection of adults diminishes their self-respect and sense of responsibility. It is no more than just to add that Lord Aberdare, who has perhaps been more disparaged than any other of Mr. Gladstone's colleagues, exhibited inflexible firmness, with a perfect mastery of details, in vindicating the rights of miners, and did not even shrink from resisting specious compromises which had deceived their own trusted delegates.

It would not be difficult to follow out the same comparison between the law as it was and the law as it is into other subjects of a less controversial nature, some of which bear directly on the comfort of the working classes. Even the Industrial and Provident Societies Act of 1871, the Adulteration of Food Act of 1872, and the Agricultural Children Act of 1873, though initiated by private members belonging to both sides of the House, are genuine and salutary products of that vigorous activity in domestic reform which characterized the Parliament of 1868, and which Mr. Disraeli has seen fit to ridicule. Assuredly, if the late Government is open to any fair blame on this score, it is not for having accomplished too little, but rather for having attempted too much. Had it never appointed a Truck Commission, it could not have been reproached with allowing itself to be outwitted by its opponents in committee, and failing to pass a Truck Bill. Had it declined altogether to meddle with the Game Laws, it would probably have disappointed popular expectation less than by relegating the matter to a Select Committee. Had it chosen to leave the Public Prosecutions Bill in the hands of Mr. Walpole and Mr. Russell Gurney, it would have saved itself

much trouble and ultimate failure, in a reform which menaced the pecuniary interests of many existing officials. Had it been content to gratify landowners and farmers with a moderate donation out of the Consolidated Fund, at the expense of the much-enduring general taxpayer, instead of boldly attempting to remodel the whole system of local government and taxation, it would not have irritated the country party at the very moment that another powerful interest was conspiring to ruin it. But this feeble and temporizing policy, though in perfect harmony with the spirit of Conservative, and even of Palmerstonian, statecraft, would have been an unworthy evasion of that commission which Mr. Gladstone received from the nation in the autumn of 1868. If the nation had become weary of well-doing and should prefer standing still to going forward, it was time for him to retire, and for a new Ministry to receive fresh instructions from the constituencies.

V. It will have been observed that more than one of the abortive bills already mentioned originated in the Home Office, and it is notorious that, under the late Government, the Home Office acquired an evil reputation for legislative failure. Such is the penalty of bringing in a number of bills recommended by their utility alone, which no Home Secretary could have succeeded in carrying within five sessions mainly devoted to business of a more exciting character. It is a very different question whether the Home Office legislation of the last five years has been either deficient in quantity, or unsatisfactory in its practical results. It is a still further, and far more serious, question whether the merit of this legislation is to be estimated by the amount of electoral gratitude which it may have evoked, or by the amount of solid benefit which it may have conferred upon the nation. The Mines Regulation Act may, perhaps, be supposed to have contributed somewhat towards swelling the proportion of Liberal members returned by the mining districts. But no similar reward could possibly be reaped from such measures as the Habitual Criminals and Prevention of Crime Acts of 1869 and 1871, efficient as they have proved, since the object of these acts has never been adopted as a hustings cry, and nine electors out of ten are quite as jealous of police authority

as they are fearful of an increase in the criminal population. It is fortunate, indeed, for the Liberal party that Habitual Criminals, although a too numerous class, are not organized enough, or perhaps wealthy enough, to exercise any powerful influence on elections; otherwise, they might have taken a place among the harassed professions, and paraded with much effect the grievance of having to notify every change of residence, and report themselves monthly to the police.

The same may be said, but far more emphatically, of the famous Licensing Bill, introduced in 1871; and of the Licensing Act, passed in 1872. This is a subject upon which no true advocate of Liberal Policy need speak, or can speak, with reserve. The late Government is often described by Conservative orators and writers as if it had run a headlong career of sensational legislation, and as if all its enterprises had been planned with a single eye to ephemeral popularity, though with a lamentable ignorance of the art by which popularity is to be won. Now, it is surely high time for such persons to be asked how it is possible to conceive any other than an honourable and patriotic motive for introducing a Licensing Bill at all. Is it credible that Lord Aberdare, in his efforts to bring the liquor trade under stricter control, was unmindful of the Home Office tradition warning Government, upon peril of their existence, to abstain from interfering with the profits of brewers and publicans? Can he, or any other minister, have been simple enough to imagine that any restriction short of the Permissive Bill could satisfy the temperance party, or that any forces which that party could bring into the field were likely to be a match for those which liquor dealers, wholesale and retail, would be able to muster for a life and death struggle? And if not, is it consistent with reason or justice, or the very rudiments of political morality, or any principle but the blindest party spirit, that magistrates, and ministers of religion, and country gentlemen, knowing that excessive drinking is the shame and curse of this country, acknowledging the necessity of checking it by legislative regulation, and seeing the improvement which the Licensing Act has wrought in public order and decency, should join with drunken mobs in vilifying the late Government for

doing that which any other honest Government must have done, and which the Conservative Opposition had been striving to force upon it ?

To defend the Licensing Bill of 1871 would be an idle and Quixotic task, inasmuch as it was abandoned by its author, though it might perhaps appear, upon a closer examination of it, that its chief defect was not its patent tendency in the direction of confiscation, but its latent tendency in the direction of monopoly. As for the Act of 1872, its sufficient justification is the slightness of the changes proposed by Mr. Cross in the present session, and his inability to maintain the more important of them. Let us look at its main provisions respecting public-houses, leaving beer houses, for the sake of brevity, out of consideration. Before 1872, no publican was compelled to close his premises except for one hour, between one and two o'clock in the morning, even in London and those large towns which had adopted the Public House Closing Act, while elsewhere public houses might be kept open all night long. The Act of 1872, as is well known, absolutely fixed midnight as the closing hour for London, and provisionally fixed eleven o'clock as the closing hour for the rest of England, leaving the magistrates power to substitute any other closing hour between ten and twelve. It also provided more effectually for the orderly management of public houses, partly by means of the so-called endorsement-clauses, which made it the interest of owners as well as of publicans to see that order is maintained, and, partly, by means of clauses which consolidated the police regulations already in force. Lastly, it checked the undue multiplication of public houses, by requiring all new licences to be specially confirmed, and by enabling licences to be transferred from one district to another. The beneficial working of these provisions has been placed beyond all doubt or question by evidence from 172 boroughs in England and Wales, furnished in reply to a circular from the present Government. It thence appears that in 147 boroughs the closing hours provisionally established by Lord Aberdare's Act have been exactly adopted by the licensing justices, that in seven only have they been extended to half-past eleven or midnight, that in twelve or fourteen only has there

been any complaint of the restriction from the inhabitants, that in 142 the inhabitants are distinctly reported to be satisfied with them, and that in 142 it is stated that no grounds exist for supposing that shorter hours have encouraged drinking on unlicensed premises. A more triumphant vindication of the Licensing Act in its bearing on public interests can hardly be imagined. On the other hand, it is certain that more spirituous liquors have been sold than ever, owing to an increase of population and a rise of wages, while it is probable that the profits of publicans have been larger than ever, owing to the impediments placed in the way of granting new licences. As regards the police clauses which Mr. Cross's Bill purports to repeal, it will scarcely be credited, yet it is the fact, that inasmuch as they merely codified old statutory provisions, and created no fresh powers, the effect of repealing them will be simply illusory, and Mr. Cross's proposal to extend the closing hours, having been decisively condemned by the country, was promptly dropped. And yet the measure, which has worked so admirably that even the present Government could only venture to attempt trifling modifications of it, and could only succeed in carrying a modicum of these alterations, has been held up to execration in every community before the most ignorant and disreputable section of the electoral body, as the crowning iniquity of Liberal Policy.

It was by a strange coincidence that Mr. Goschen's comprehensive but short-lived bill for remodelling the whole machinery of Local Taxation was introduced on the very same evening as the first Licensing Bill, and some critics have confidently dated the decline of Mr. Gladstone's administration from this 3rd of April, 1871. Whether or not this view be correct, and whether or not it was a proof of wise generalship to propound two such ambitious schemes without being prepared to press them, Mr. Goschen's exposition of local taxation, and his plan for reforming it, will remain on record among the valuable political legacies of the late Government. Of the violent attacks which have been made upon the various amendments which he proposed, and especially upon the half-rating system, it is perhaps enough to say that whereas a reckless spoliation of vested in-

terests is constantly alleged to have been one of its objects, a scrupulous reservation of vested interests was really among its most prominent and characteristic features. After all, however, the Liberal Policy of the last five years in respect of local taxation and government, whether for good or evil, must be judged, not so much by Mr. Goschen's promise as by his own and Mr. Stansfeld's performance. Now, although such a change as that made in 1871 by the Local Government Board Act may appear little more than a mechanical arrangement, it was really a very important step towards sanitary reform, the improvement of towns, the readjustment of rating, and the reconstruction of local authorities. This act concentrated in the Local Government Board a variety of powers formerly vested in the Poor Law Board, the Home Office, and the Privy Council. It was followed by Mr. Stansfeld's Public Health Act of 1872, which, though conceived in a most conservative spirit, and based on the existing jurisdiction of Town Councils, Town Commissioners, and Boards of Guardians, is working a gradual but salutary revolution in the sanitary administration of rural as well as of urban districts. Without destroying a single local institution which had life in it, or pouring forth an army of scientific hygienists from a central office, Mr. Stansfeld has succeeded in spreading a network of sanitary inspection over the whole country, and paving the way, at least, for a much bolder advance in the same direction. If he was less fortunate with his Rating Bill of the following year, whereby mines, woods, and rights of sporting, were made liable to assessment, the failure was due to no defect in its principles, which have been adopted in their integrity by his successors, but solely to a hasty and obstructive vote of the House of Lords. There was reason to hope that a complete revision of local government and taxation would have been undertaken by Mr. Gladstone, as the main work of the present session. But this hope, with many others, was frustrated by the sudden dissolution and subsequent change of ministry. It is by no means unlikely that a revision of local taxation, in the interest of landowners and farmers, may be attempted by a cabinet of peers and county members, but it is highly improbable that any thorough revision of local government, now monopolised by the

landed aristocracy in country districts, should recommend itself to a body so composed.

VI. Such are some of the principal measures which the nation owes, directly or indirectly, to five years of Liberal Policy—a policy for which the whole Liberal party is responsible. For it must never be forgotten that a Liberal Government is nothing but the Liberal party in power, since its capacity both to do and to leave undone is strictly limited by the support which it may receive from the great mass of its followers. From this point of view, it is important that we should realize, not merely the amount of solid constructive work accomplished by the late Government, but also the force of the sheer *vis inertię*, strengthened by a tacit league of selfish interests, which had to be overcome in accomplishing it, and not merely this, but also the moderation and self-restraint which it imposed upon itself in resisting specious and popular, but unreasonable and impolitic, demands. In the discharge of both these duties, it had too often to combat a section of its followers in temporary alliance with the enemy, but it is certain that it would have done so in vain, had its policy not been approved by the reason and conscience of the Liberal party as a whole.

Let us, then, first glance at some of the many crude or visionary schemes pressed upon the late Government from both sides of the House, and deliberately rejected by it, with the full concurrence of honest and thoughtful Liberals, but at no light sacrifice of that personal favour which Conservatives mistake for political confidence. No survey of Liberal Policy, however cursory, would be complete without such a chapter, for it is as much a part of Liberal Policy not to be misled by false lights as it is to discern and to follow true lights. Doubtless, here and there an instance may be found in which an individual minister betrayed a qualified sympathy with some benevolent crotchet which it would have been wiser to discourage, or resorted to a dilatory plea, so as to avoid giving offence, where his own convictions would have prompted him to utter a decisive refusal. But, if the late Government be judged by acts rather than by words, and by the general principles of its conduct rather than by rare and exceptional deviations from them, assuredly the

very last charge that can be proved against it is that of having made unworthy concessions to demands which it ought to have firmly withstood.

Can it really be supposed that Mr. Gladstone and his colleagues were so ignorant of human nature as to fancy that disinterested parsimony is as attractive as interested extravagance? Could they have been weak enough to dream that any saving which they could effect in the public offices, the army, and the dockyards, would elicit a feeling of gratitude among taxpayers as lively or as lasting as the resentment which it was sure to arouse among office-holders and office-seekers? Might they not have won over powerful backers in every regiment, and in every constituency where retired officers congregate, by recommending an exorbitant scale of compensation for purchase? Having notoriously forfeited the affections of clerks in the Civil Service by insisting on money's worth being given for money, could they not have earned a cheap support among London tradespeople by promising, or pretending to promise, the suppression of Civil Service Stores? Might they not have propitiated one little circle of candid friends by accepting Mr. Torrens' motion for aiding emigration out of national funds, and his subsequent proposal that a select committee should be appointed to report on the relations between Great Britain and her colonies, with an ulterior view to colonial representation in Parliament? Could they not have amused the advocates of Female Suffrage with distant hopes of an enfranchising clause in the next Reform Bill or affected a theoretical inclination, restrained only by practical difficulties, towards Mr. Anderson's views on currency, Mr. Plimsoll's notions about a government inspection of ships, and Mr. P. Taylor's motion for a simple abolition of the Game Laws? Why should Mr. Bright have flatly declined the request of one deputation that he would endeavour to clear the seas of bottle-nosed whales? Why should Mr. Gladstone have bluntly informed another deputation, headed by Mr. Muntz, that he could not advise Her Majesty to issue a royal proclamation, enjoining all loyal subjects to abstain from the use of veal and lamb, until the stocks of sheep and cattle should have been fully replenished? And why should he have scared the Corporation of London with

the spectre of municipal reform in the metropolis? Why should not the fallacies of Reciprocity have been humoured and evaded, instead of being exposed, and why should the plausible appeals of Sir M. Lopes, on behalf of country ratepayers, have been demonstrated to involve consequences which few had suspected? Why, in a word, did not the late Government, with the connivance of the Liberal party, and in strict accordance with precedent, study to conciliate, if not to bribe, every influential class, and faction, and school of thought, whose ideas might be countenanced, or whose complaints might be appeased, without much risk of public reprobation? There is really but one explanation of this apparent paradox, and that explanation is that Mr. Gladstone's Ministry was faithful to its trust, that it preferred enduring fame to fleeting applause, and that it was more careful to deserve confidence than it was to retain office.

VII. But the five years of Liberal Policy, beginning with the memorable Christmas of 1868, have also been five years of Conservative Opposition. Posterity, which must hereafter judge the recent verdict of the constituencies, as the constituencies have judged the acts of the late Government, will not fail to condemn the reckless and unstatesmanlike method in which this opposition has been conducted, or to fix the chief responsibility of it on Mr. Disraeli. Until Mr. Disraeli assumed the leadership of the Conservative party in the House of Commons, twenty-six years ago, it had been the honourable practice of both parties, when in opposition, to offer battle on every question of principle, but to abstain from snatching a chance victory on minor issues, by coalescing with discontented sections of the ministerialist party. Nay, more, on a great many questions of departmental, rather than political, interest, it had been usual for ministers to expect and receive a certain degree of support from the front Opposition Bench, especially against motions affecting the national honour, or involving improvident expenditure. Since the year 1848, this salutary Parliamentary etiquette, which had been observed, with but few exceptions, under the administrations of Lord Melbourne and Sir Robert Peel, has been violated more and more frequently until it has well-nigh become reversed. Instead of recognizing the duty of dividing on every great question of

principle, the Conservative Opposition has of late years made it a rule of strategy never to provoke, and, where possible, to avoid divisions on great questions of principle. Instead of scorning to depart from its own traditions and ally itself with the left wing of the Liberal party, it has sought and seized every opportunity of defeating the Government on side issues, with the assistance of deserters and mutineers, irreconcilably hostile to Conservative policy. To enumerate all the instances in which these unscrupulous tactics have been followed during the last five years, would be to write the history of the Parliament of 1868. Mr. Disraeli himself, it is true, was generally prudent enough to abstain from giving votes which might possibly embarrass a future Prime Minister, and even manifested in the debates on the Alabama Claims a forbearance not unworthy of a statesman. His followers, however, were restrained neither by these considerations, nor by their own Conservative instincts, from joining with Radicals below the gangway in any division which seemed likely to damage the Government. No one can doubt that a true Conservative would have instinctively sided with the Government on the Thames Embankment question, the Parks question, the Epping Forest question, the Fiji Islands question, and a number of other questions on which Mr. Gladstone and his colleagues, rightly or wrongly, defended traditional maxims of Imperial administration against severe pressure from some of their own supporters. No one can believe that any Conservative Chancellor of the Exchequer would have acceded to such a motion as that of Mr. Plunket, for a general and indiscriminate increase of salaries in the Irish Civil Service. Yet, in all these cases, the spirit of faction proved too strong for Conservative patriotism, and leading members of the Opposition felt it no part of their duty to aid an obnoxious Government against unjust attacks, if they did not openly espouse the cause of its assailants. Unhappily, the demoralizing effect of their evil example cannot be confined to one party, but must too certainly tend to lower the general tone of English politics.

It is needless to say that wherever private have conflicted with public interests, the former have found ready and zealous patrons on the Conservative side of the House. Of course, the

Conservative party cannot be justly blamed for stoutly opposing measures so little in harmony with Conservative policy as the Irish Church Act, the Ballot Act, and the Abolition of Purchase in the Army, nor is it very easy to understand why they should not have divided against the Irish Land Act. Some allowance, too, must be made for the inherent defect in Conservative vision, which causes the part, in defiance of mathematical laws, to appear greater than its whole, and the privileges of the few a more sacred object than the rights of the many. But it is no breach of political charity to doubt whether the Conservatives were justified in attempting to inveigle Parliament into pensioning off Irish incumbents and curates on an exorbitant scale of commutation, into securing the illiterate voter the liberty of being coerced and corrupted, or into compensating regimental officers twice over for the loss of their claim to buy promotion without merit. Still more fairly may it be doubted whether men who had publicly recognized the necessity of controlling the liquor trade, and, as licensing magistrates, were fully alive to its abuses, could be justified in constituting themselves its obsequious champions, and accepting at the general election, the position of "publicans' candidates." This ignoble policy, moreover, was carried out by equally ignoble artifices of Parliamentary strategy. Never perhaps were the forms of the House of Commons so grossly or so insolently overstrained as in the session of 1871, during which seventeen divisions took place on more or less obstructive motions before going into Committee of Supply, twelve on motions for the adjournment of the House, twenty on motions for the adjournment of the debate, and seventeen on motions for reporting progress or vacating the chair in Committee. By dilatory manœuvres of this kind many useful measures of the secondary order were defeated altogether, while more were so mutilated and spoiled that it would perhaps have been wiser for their authors to have abandoned them, and thus escaped the discredit of their preconcerted failure.

A notable specimen of legislative jobbery, most skilfully managed and crowned with complete success is furnished by the case of the Borough Funds Act, passed in 1872, and this case may well serve to illustrate both the nature and the power

of those influences which are the natural and implacable antagonists of Liberal Policy. Until the year 1871, it had been supposed that Municipal Corporations were authorized by the Municipal Corporation Act of William IV. to expend corporate funds in promoting or opposing bills affecting the communities which they represented. In that year, however, it was decided by the Queen's Bench, in a suit against the corporation of Sheffield, that expenses *bonâ fide* incurred by that corporation in compelling a water company to perform its obligations for the benefit of the inhabitants, could not be charged upon the rates, but must be defrayed by individuals. The Borough Funds Bill, introduced by Mr. Leeman and others to cure this defect, met with a strenuous and determined opposition from the representatives of gas and water companies. Unable to defeat it, these gentlemen succeeded, mostly during the small hours of the morning, in carrying amendments whereby, in order to legalize the expenditure of corporate funds in promoting or opposing any bills, it was made necessary to obtain the approval of an absolute majority of the whole municipal governing body, at a special meeting held after long notice, as well as the sanction of the Home Secretary, or the Local Government Board. As if these obstacles were not sufficient for the purpose, a clause was inserted subjecting the ultimate decision of the municipal and Imperial government to the vote of a town's-meeting, where a single ratepayer may challenge the verdict of all his fellows, and demand a poll, thus reverting to a principle of legislation known only among the most savage nations, by virtue of which the most complicated questions are referred to a vote of the whole tribe. But even this was not all. By a further amendment it was provided that nothing in the act contained should empower any municipal governing body to promote any Gas or Water Bill to compete with any existing Gas or Water Company established under any Act of Parliament. The manifest object of these amendments was to paralyze the action of municipal governing bodies in combating injurious monopolies, or enforcing due compliance with the parliamentary obligations of gas and water companies, and to enable a comparatively small clique of local jobbers to stop any improvement, however necessary, which

involves the slightest increase of rates. Hence they received the hearty support, not only of Peers and members of Parliament directly connected with powerful companies in both Houses, but of that Conservative mass which naturally sympathizes with monopoly and privilege whenever they conflict with the good of the people. The Government, of course, took exception to them, but, having much else on its hands, made no decisive stand against them, and so they were foisted in, one by one, almost by stealth, at the close of an exhausting session. A bill to repeal them was brought in by the Home Office in the following session, but too late to be carried through, and the consequence is that a fatal obstacle has been placed in the way of sanitary improvements in all English municipalities, against which their corporations are almost unanimously protesting. So potent and so insidious is the spirit of private interest; so disastrous is the least relaxation of that zeal for public interest which has been the characteristic merit of the Liberal Government and party, but which Conservative agitators denounce as a policy of confiscation.

It was in the House of Lords, however, that Conservative opposition naturally put forth its whole strength, and manifested its real temper with least disguise. This is not the place to review the course of legislation in the House of Lords during the last forty years, or to estimate the prodigious waste of public time and patience which has resulted from its petulant rejection of bills which it has been afterwards obliged to accept. We must not even attempt to recapitulate the results of its obstructive action during the last five years, to some of which allusion has already been made. It will be enough if we concentrate our attention on two sessions, and consider how far the good of the country has been promoted by the votes of the Upper House on some of the more important questions submitted to it in 1871 and 1873.

The first of these questions arose on May 8th, 1871, when the University Tests Bill was discussed in Committee, and Lord Salisbury proposed a new declaration which all college tutors and lecturers should be required to sign. This proposal, as well as the subsequent proposal to exclude the Headships of Colleges

from the operation of the bill, was carried by a small majority, exclusively composed of Bishops, but it is fair to add that when the Lords' amendments were rejected by the Commons, a majority of forty, including seven Bishops, prudently declared against insisting upon them. On May 15th, Lord Cairns succeeded in carrying the slight but significant modification of the Criminal Law Amendment Bill which has mainly contributed to prejudice its efficacy. On July 17th, the Duke of Richmond, as spokesman of the Purchase Officers, induced the House of Lords, not actually to throw out the Army Regulation Bill, but to record its unwillingness to consider that bill until "a complete and comprehensive scheme" for reorganizing the British Army in all its branches should have been laid before it. On July 31st, the Duke of Richmond induced the House to censure, by a still larger majority, the Abolition of Purchase by Royal Warrant. On August 3rd, an unsuccessful attempt was made by Lord Salisbury to postpone for another year a bill enabling the House of Commons to examine witnesses on oath. Finally, on August 10th, the second reading of the Ballot Bill was put off, on Lord Shaftesbury's motion, for six months, after a short debate, though it had cost the House of Commons some twenty nights of close discussion. The sole pretext for this resolution, supported by a majority of forty-nine, was that sufficient time had not been allowed the Upper House for deliberation on the subject. The hypocrisy of that pretext is proved by the simple fact that, in 1872, a similar bill was read a second time in the Lords after a single evening's debate, and passed through Committee in two days.

Still more wantonly mischievous, because more obviously governed by a spirit the reverse of public spirit, was the conduct of the Conservative majority in the House of Lords during the session of 1873. One of the most useful and honest measures of this session was the Railway and Canal Traffic Bill. When the railway system was originally developed, it had been expected that private firms and individuals would run trains of their own, as they had owned canal boats, but it was soon found more convenient for the railway companies to undertake the whole carrying business at their own charge. The result has

been the establishment of gigantic monopolies, which have wasted enormous sums in fruitless litigation, and have too often neglected the public convenience altogether. The principle of Mr. C. Fortescue's Bill was to mitigate these evils by creating a special commission with jurisdiction in certain disputes between companies, as well as between a company and the public. But the "Railway Interest" was alarmed by the prospect of a tribunal which might enforce fair play, and put a stop to ruinous competition, and, though foiled in the House of Commons, it was strong enough in the House of Lords to carry amendments limiting the commissioners' powers, and giving an appeal against their decisions, which may probably go far to neutralize the operation of the act. The same partiality for privilege seems to have actuated the Conservative majority among the Peers in throwing out Mr. Stansfeld's Rating Bill, already mentioned, which brought game, woods, and mines within the area of rateability, and which has been expressly adopted by the present Government as a fair settlement of the question. It is not very easy to explain their summary rejection of the Attorney General's Bill, whereby constituencies were to be relieved of the expense, and electors of the annoyance, incident to a double system of municipal and parliamentary registration, unless upon the supposition that, even in a matter specially affecting the rights of the Commons, they were loth to forego an opportunity of tripping up the Liberal Government, which they were about to reproach for the barrenness of the session. A different, but not less effectual, method was taken with the Conspiracy Bill, which, like the Registration Bill, had been drawn with unusual care. This bill was not thrown out, but only so mangled and transformed in Committee, that, when it returned into the Lower House, it was agreed on all hands to withdraw it, rather than incur the responsibility of passing it.

VIII. It is now time to ask ourselves, plainly, how it comes to pass that five years of Liberal Policy and Conservative Opposition have terminated in a decisive victory of the reactionary party at the general election of February last. The causes are manifold, and cannot be referred to one general law, but, taken collectively, they are fully adequate to account for the marked

change which has come, not over public reason, but over public sentiment, and not so much in the political classes, as in the vast non-political class, which fluctuates alternately from side to side, like a mass of loose ballast in a vessel, and decides by its dead weight the issue of most contested elections.

First among these causes must be placed the influence of foreign politics, operating very slowly, and almost insensibly, but surely and powerfully, on the balance of parties in this country. As the great reaction which ended with the first Reform Act was directly connected with the French Revolution and the wars that followed upon it, and as the political apathy which reigned during Lord Palmerston's last administration was favoured by the supposed collapse of democracy in America, so the crimes of the Commune were twisted by Conservative sophistry into arguments against a Liberal Policy, and many quiet people became Tories at heart, ignorantly fancying that revolution abroad and reform at home must have something to do with each other. This influence made itself felt in the critical autumn of 1871, at the close of a session in which the Government had subjected itself to much needless humiliation, and it was sensibly aggravated by the foolish Republican demonstrations of the following winter. In this case, as in so many others, the moderate section of the Liberal party, represented by the Ministry, was placed between two fires, being made to answer for the extravagance of its extreme left wing, yet held up to obloquy by members of that wing for subservience to monarchical and aristocratic prejudices.

It were an ungracious task for a Liberal writer to dwell minutely on the part unwittingly played by conscientious Liberals in damaging the late Government and bringing about a Conservative reaction. Yet it would be inconsistent with historical justice to slur over altogether the inopportune displays of independence, bordering on open mutiny, which at the same time disintegrated the Liberal majority in the House of Commons, and naturally shook the confidence of the country in the Liberal party. This source of weakness, though developed late, was directly generated by the original strength of Mr. Gladstone's administration in the Parliament of 1868. It is a well

known maxim of Parliamentary warfare that it is possible to have too large, as well as too small, a majority, and if ever a Government suffered from a plethora of apparent support, it was that of Mr. Gladstone. Presuming on this imposing reserve of power, and greatly undervaluing the resources of the enemy, almost every Liberal member who had a legislative idea of his own was instant, both in season and out of season, in demanding a vote upon it. Of these mistakes, by far the most disastrous in its consequences was the attitude maintained by a section of the Liberal party on the Irish University question. There can be no doubt that Mr. Gladstone had been led into some rhetorical exaggeration of the Roman Catholic grievance, in respect of University Education, and had thus encouraged illusory expectations. But it is equally certain that he was right in rejecting Mr. Fawcett's scheme, excellent in itself, as a wholly inadequate solution of the problem. The chance of solving it at all depended mainly on its not being thrust into undue prominence, but allowed to fall into the second rank of political questions, to which it properly belonged. Unfortunately, Mr. Fawcett and a small band of followers, possessed with the notion that some unworthy compromise was designed, and failing to appreciate the extraordinary difficulty of Mr. Gladstone's position, pressed forward the reform of Trinity College, Dublin, session after session, with remorseless pertinacity, always challenging the Government to declare their views on the entire subject. On one occasion Mr. Gladstone plainly intimated that, rather than allow his hand to be forced prematurely, he was prepared to resign office, and this declaration had a marvellous effect in restoring party discipline for a while. Still the evil had been done. It was no longer possible to deal with Irish University Education on a limited scale, or by gradual methods. The Irish Catholic section, and the Scotch Protestant section, of the Liberal party, were equally prejudiced beforehand against any settlement that Mr. Gladstone might propose, each believing that it would be dictated by the other. Yet neither would allow the matter to be postponed, and it is hardly too much to say that Mr. Gladstone was forced to lead his army into action by the very men who meditated turning against him, and did turn against him, in the midst of the battle.

It was no special fault or misfortune of Mr. Gladstone, but a fatality inseparable from a sound and honest Liberal Policy, which detached adherents from the late Government at each step of its administrative and legislative career. The clergy of the Established Church were, as a body, hostile to it, partly by virtue of their historical alliance with the Conservative aristocracy, and partly by virtue of their sympathy with their Anglican brethren in Ireland; yet a large section of the Nonconformists soon began to distrust it, because it would not adopt the doctrines of the Liberation Society, and because the Education Act had worked unfavourably for Nonconformist influence. The shop-keeping class was easily induced to suspect it of complicity with Trades Unionism, because Mr. Gladstone had always spoken generously of the working classes, and because the Home Office had introduced a Trades Union Bill, yet in the opinion of Trades Unionists it had lost all claim to their gratitude, because the Criminal Law Amendment Act, as modified by the House of Lords and construed by country justices, had not redressed all their grievances. Whig landlords, both in England and Scotland, were persuaded that it was in contemplation to extend the principle of the Irish Land Act to Great Britain, yet English and Scotch tenant-farmers grumbled that so little was done to define tenant-right, to abate the nuisance of excessive game-preserving, or to reduce the pressure of new rates on the occupier. The publicans were infuriated by the mere suggestion of a possible diminution of their profits in the interest of sobriety, but the temperance party were not conciliated, because they knew that as much liquor could be consumed in shorter hours, and that nothing but popular control over licences would effect their purpose. Such will ever be the reward of political moderation; but to all this must be added the numberless sources of discontent which, in the course of five eventful years, must needs accumulate against any Government, and especially a reforming Government, relentless in its resolution to subordinate class-interests, private interests, and even party interests, to the interests of the nation at large. When we consider how many aspirants for office must have been disappointed, how many applicants for Government assistance must have been disgusted,

how many theorists must have been offended by the neglect of their favourite crotchets, and how many persons in the service of the State had been reminded of their official duties, it will soon cease to surprise us that in every county and borough men wholly indifferent to politics, but smarting under the sting of a personal grudge, should have been the most active of canvassers on the Conservative side. A less scrupulous Government might perhaps have contrived to devise some counterpoise of self-interest by a judicious use of patronage, but no such resource was open to a Ministry which had staked itself on its uncompromising public spirit. Mr. Gladstone's Cabinet had, in fact, divested itself of patronage in every department to an extent altogether without parallel, and one secret of its unpopularity in Pall Mall was that it had left itself nothing to give away. Not that any impartial student of Parliamentary history can acquit the late Government of a certain want of management, to which, as well as to a genuine divergence of opinion, the divisions within the Liberal party may be directly traced. Errors were doubtless committed, but they were, for the most part, errors which sprung from an exclusive and too engrossing zeal for great national objects, the promotion of which, after all, is the supreme duty of a statesman. Had Mr. Gladstone and his colleagues been less capable and less earnest; had they cared more for personal convenience and less for the good of their country; had they more assiduously cultivated grace of manner, and been less faithful guardians of the national purse; they might perhaps have been in office at this moment, leading a tolerably united, but thoroughly demoralized, party.

It would not be difficult to show that, in other ways besides a too unselfish use of power, the late Government was the victim, not of its faults, but of its virtues. There is no paradox in the assertion that a large and rapid increase of national wealth tends, in this country, to produce a Conservative reaction, and so the very triumphs of Liberal financial policy recoil against the Liberal party. Mr. Pitt once said that a man with £500 a-year was sure to be a Tory, and though men of £500 a-year are now too common to be set down as *ex-officio* Tories, it is certain that a man of £5000 a-year is apt to gravitate towards

Conservatism, especially if he happens to be a self-made man, of sordid nature and imperfect education, who has retired from business and taken a country place. The grand ambition of such a man is to improve his social position, and to get himself, with his wife and daughters, into what calls itself county society; for which purpose the best passport in many parts of the country is a certificate of Conservatism. Perhaps he may have talked a little Radicalism in his youth, in company with struggling men, and in contact with the hard facts of work-a-day life, but political apostasy is easy to one who never had any real political belief, and feels that Radical opinion would be quite out of place in genteel circles. And so he readily consents to preside at some little meeting got up under Conservative patronage; his son's name is put down at the Carlton Club; his wife is loaded with civilities by high-born ladies, who formerly looked down on her with sovereign contempt, and he ends by becoming a Conservative of the least respectable type—a *parvenu* converted to Conservatism by self-interest alone. Many conversions of this kind have taken place within the last five years, and the gradual estrangement of the commercial plutocracy from the cause of the people, under the influence of a prosperity secured by Liberal Policy, is not one of the least perilous signs of our times.

Even among politicians of a class less accessible to social bribery the late Government doubtless lost support by reason of its very success in carrying out its original programme within the short period of three years. It was at the end of 1871, as we have seen, that marked evidences of a decline in its power were first perceptible, and, by the end of 1871, not one of its main pledges remained unredeemed. Had it been content to do less in a longer time, to spread its great measures, at the rate of one annually, over five or six years, to keep constantly trading on the promise of some popular boon, and to hold in reserve some "blazing" question upon which the Liberal party could have been rallied at the poll, the issue of the general election might have been very different. As it was, the magnitude, profusion, and rapid succession of its early achievements not only put a somewhat excessive strain on party discipline, and exhausted the reforming zeal of half-hearted Liberals, but also

gave the non-political class an excuse for pleading the necessity of repose. Strange to say, however, this cry for repose, absurd in itself, was never raised very loudly till it had almost ceased to have any plausible justification. There is a palpable confusion of thought in attributing a need of rest to a whole nation, as if it had muscular fibre and nervous power to be repaired by physiological agency, or as if more than a fraction of its citizens were actually engaged in the hard work of politics. But if the nation ever needed rest at all, it needed rest at the end of 1871, and not at the end of 1878, when there had been a comparative relaxation of legislative vigour lasting over two sessions, and captious Liberals were beginning to ask whether Mr. Gladstone had not played himself out. Still, the watchword answered its purpose very well, and, probably, many simple-minded people, who are now honestly applauding the meddlesome benevolence of the present Home Secretary, were honestly convinced a few months ago that, unless the country had rest, it would break down from sheer fatigue like an overworked man, or become permanently deteriorated, like an over-cropped field.

Such have been the principal, though by no means the only, causes of the Conservative Reaction, which, if not clearly foreseen by Liberals, is not the less capable of a complete retrospective explanation. He who duly reflects on the prodigious force and incessant activity of the motives opposed to Liberal Policy, the eternal conspiracy of timidity, ignorance, and self-interest against the cause of progress, the inveterate antipathy of frivolous mediocrity to commanding ability guided by an earnest conviction, will cease to marvel at the political ingratitude displayed by so many constituencies during the last election, and will rather take comfort in the assurance that not one of the beneficent reforms enacted during the last five years can ever be reversed. He will look back with unalloyed satisfaction on the marvellous growth of national prosperity under Mr. Gladstone's administration, on the boundless elasticity of trade, on the progressive diminution of pauperism, on the steady rise of wages, on the constant advance of the labouring classes in comfort and independence. He will call to mind a thousand proofs that current ideas have been profoundly modified by

Liberal Policy, and that even Conservatives no longer think or speak as they did in 1868 on the great social questions which still remain to be solved. He will not fail to observe that four short months have sufficed to reveal a vacillation of purpose in the present Ministry, which the late Ministry never exhibited until it had reached its third year of office. He will not, however, anticipate a very speedy or sudden revival of Liberal enthusiasm, nor will he desire to precipitate the moral process whereby a reconstruction of the Liberal party must be painfully wrought out. No free people deserves a better government than it selects for itself, and it would be worse than useless, if it were possible, to force a member of statesmanlike character on an electoral body which deliberately prefers a local brewer or dexterous speculator of European reputation. For the present, the mission of the Liberal party is in abeyance, never to be annulled, yet never to be fully accomplished while any political good remains to be realized, or any political evil to be remedied. When public spirit shall be rekindled, when the pulse of national aspiration shall again beat high, when political morality shall have recovered its tone, when brave and wise counsels shall at last be demanded in some grave emergency, when progress shall once more be recognized as the essential law of political life—then, and not until then, will the Liberal party awake from its torpor, like a giant refreshed, and the country enter on a new era of Liberal Policy and Conservative Opposition.

WHAT ARE LIBERAL PRINCIPLES?¹

1877.

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I.

TWO-AND-TWENTY years ago a strange panic seized upon the public mind in this country, and for a while shook the national faith in representative institutions. A temporary failure of our commissariat at the commencement of the Crimean war, contrasted with the supposed efficiency of French military administration, sufficed to produce a passionate impatience of parliamentary control, and a craving for "strong," if not for "personal" government. Even the Prince Consort, speaking deliberately at a critical juncture, declared that constitutional government was "under a heavy trial;" and less prudent men, with less knowledge of English history, were neither afraid nor ashamed to enlarge significantly on the merits of a dictatorship. This fit of unworthy self-abasement rapidly passed away; the vigour of English organization was seen to increase, as the shortcomings of French organization became more evident, with every month of the war; the French people soon afterwards began to clamour for those very liberties which Englishmen had affected to despise; Italy, Germany, and Austria herself, successively adopted constitutional government of an English type; the great struggle of 1870 showed that, for want of it, the armaments of France had no moral force behind them, and the idol of French Imperialism was finally shattered at Sedan. Thenceforward we have seldom heard of personal government, except for the purpose of pointing an adverse moral; and, in 1877, few would venture to whisper in the secret chambers those anti-constitutional sympathies which, in 1855, were freely proclaimed upon the housetops.

A similar wave of reactionary sentiment has, nevertheless, recently passed over the surface of English politics. As the vitality of the British Constitution was impugned because the arrangements for supplying the British army had broken down in a sudden emergency, so the vitality of Liberal Principles is impugned because a Conservative Ministry has existed for three years and there is no immediate prospect of displacing it. For twenty-five years before, with three very short intervals, the Liberal Party had been in power; during this period it had

triumphantly carried nearly all the measures which Liberals of the last generation had at heart ; having sunk into a minority under a combination of influences that would have destroyed any other party much earlier, it has still been able to hold the ground which it had conquered ; and yet there are those who profess not only to despair of its revival, but to doubt the very existence of distinctive Liberal Principles. In vain are they reminded that patriots of former ages were content to live and content to die for principles of civil and religious liberty, which are now the inheritance of the Liberal Party, but which then, as now, were a stumbling-block to faint-hearted believers and foolishness to political sceptics. In vain are they invited to watch the growing ascendancy of Liberal Principles on the Continent, after repeated discouragements, and under far more arduous conditions. They admit that in its origin the Liberal cause was the cause of the people, that it was a reality, and not a mere name, in the days of Hampden and the days of Somers, under the cunning autocracy of George III. and in the great reaction which followed the French Revolution. They do not deny that momentous issues were at stake when that reaction was rudely cut short by the first Reform Act, and they are fain to acknowledge that Liberal Principles were not wholly played out when their energy was suspended during the declining years of Lord Palmerston. They cannot help perceiving that Germany has become the first power of Europe, and that Italy has made herself a great nation, by tardily embracing the most essential of Liberal Principles ; they recognize Liberal Principles as the basis of national prosperity in Switzerland, in Holland, and in Belgium ; they applaud the adoption of Liberal Principles and condemn every backsliding from Liberal Principles in France ; they know that Liberal Principles created the United States of America, and are the very breath of life to all the more prosperous British colonies. They would be Liberals anywhere but at home, and in any age but the present. The alleged exhaustion of Liberal Principles is peculiar, forsooth, to Great Britain, and it is from the last general election that we are complacently admonished to date the new millennium of political indifference.

But the reign of political indifference is sometimes proclaimed,

not so much on the ground that Liberal Principles are exhausted as on the ground that all their stable and valuable elements have been absorbed into modern Conservatism, or at least have become the common property of both parties. How far this is from being true will hereafter appear more clearly. In the mean time, we cannot fail to remark that, if true, it would amount to a most triumphant justification of Liberal Principles, and an almost conclusive presumption against abandoning our hold upon them. If Liberal Principles are shown to have guided the nation aright in the seventeenth century, in the eighteenth century, and during the first two-thirds of the nineteenth century; if those who persistently opposed Liberal Principles for so many generations are now convicted of having opposed reason and justice and national interest—surely this is a strange reason for abjuring Liberal Principles under their own proper title, and fastening upon them an alien title like “Conservative” or “Constitutional,” hitherto associated with resistance to Liberal Principles. If the Party which Lord Beaconsfield more accurately calls “Tory” is really prepared to burn what it used to adore and adore what it used to burn, why should it cling so fondly to party watchwords and appellations which recall the shameful memories of English constitutional history, instead of borrowing the name with the glorious traditions of the Liberal Party ?

What, then, are Liberal Principles ? This is the question which Lord Derby avowed himself unable to answer in that remarkable exposition of Conservative policy at Edinburgh, which must have sounded to working men like a gospel of political despair. In approaching such an inquiry, it may not be amiss to bear in mind a striking analogy furnished by the religious world. No divisions among English Liberals are so broad, or so deep, or so ancient, or so enduring, as those which keep asunder the various Protestant churches of Europe and America. Moreover, the divisions of Protestantism are rendered more significant by contrast with the imposing unity of Catholicism—an unity which, hollow as it is, far transcends in solidity any superficial coherence of the Conservative party. Nevertheless, we may well ask whether the most sectarian of

Protestants, or the most casuistical of Jesuits, would dispute the existence of governing ideas and definite tendencies common to all Protestantism, and opposing an insuperable barrier to any reunion of Christendom on a Catholic basis. If this be true—and who can deny it?—there may surely be governing ideas and definite tendencies common to English Liberalism, in spite of all the differences between the centre and left wing of the Party. In other words, there may be a profound agreement on Liberal Principles, underlying, in the deeper strata of thought, all the manifold disagreements on Liberal Policy. To enumerate these principles exhaustively would of course be impossible, but it is not impossible to identify some of those which are most firmly implanted in the heads and hearts of true Liberals, and the influence of which is most clearly to be traced in recent history.

II.

1. The first and broadest of all Liberal Principles is the unreserved recognition of Progress as the appointed law of all human institutions, civil or religious. This Principle, sometimes ridiculed as a truism by modern Conservatives, has been steadily violated or ignored in Conservative policy, and is practically embraced, with all its consequences, by Liberals alone. Looking upon the nation as a living and growing organism, a true Liberal watches, not merely without alarm but with hearty satisfaction, those results of national life and growth which call for constant readjustments of political and administrative machinery. He does not fall into the Conservative error of imagining that codes or precedents or customs or forms have any vitality or any authority in themselves, but he regards them as products of national character, the development of which should keep pace, and should not more than keep pace, with the natural process of social evolution. Acting on this Principle, the Liberal Party carried the great Reform Act of 1832, whereby the representation of petty boroughs was transferred to populous towns, and the mass of the middle classes admitted within the pale of the Constitution. Acting on this Principle, the same Party welcomed the rise of the artizan class in boroughs; and though defeated

in the attempt to enfranchise the best part of them, compelled its opponents to pass a still larger extension of the suffrage, throwing out the provisions under which it was sought to take back with one hand what had been given with the other. It was this Principle which, applied to urban self-government, produced the reform of municipal corporations; and this which, applied to endowments, produced the Charity Commission, the University Reform Acts, and the Endowed Schools Act, with many like measures designed to protect the interests of the living against the posthumous control of the dead. It was this Principle, again, which, having been adopted too late to save the American colonies, has since been carried out by the Liberal Party in extending to most of our other colonies the privileges and obligations of free communities. But it is superfluous to multiply examples of its operation, for not a year or a month elapses without bringing up some issue on which the Liberal Party advocates progress, and the Conservative Party places itself in the attitude of obstruction. Not that every Liberal possesses, or that every Conservative lacks, the power of discerning the signs of an institution having outgrown its original structure, and the mode in which it should be adapted to new conditions. Such insight and flexibility of mind are given, in fact, to few, and fewer still retain the courage to exercise them in advanced life. But since the Liberal seers have ever been first to indicate the necessity of progressive changes, and since the Liberal Party has generally had the wisdom to follow their guidance, an active belief in progress may justly be claimed as an essentially and distinctively Liberal Principle.

2. A second Principle, implied in the very word "Liberal," and illustrated in every chapter of Liberal Policy, is an imperishable love of Freedom. Long before the Liberal Party had grasped the idea of Progress, or divined the "increasing purpose" which runs through all the ages, the idea of Freedom, both civil and religious, had become the very life-blood of the Liberal creed, and borne ample fruit in legislation. Animated by this Principle, as applied to colonial policy, even the oligarchical Whiggism of Burke and his associates rose into a lofty republican strain, in protesting against the arbitrary measures which pro-

duced the American war. The freedom of the press was not achieved without a struggle prolonged from the age of Milton to a period within living memory, in which all the Conservative forces were arrayed against it, and Liberals asserted it under peril of imprisonment. Personal freedom was only secured to all British subjects by the most determined efforts of Liberals, after the Reform Act had weakened the power of the slave-owning interest and their Conservative allies. For, though Conservatives shared with Liberals the honour of abolishing the slave trade, the horrors of which shocked their humanity, very few but Liberals were found to reprobate slavery, as slavery; and it is little more than a year since Liberal opinion arrested a Conservative Government in the act of countenancing slavery by an order of the Admiralty. Freedom of worship, as well as freedom of election to municipal offices, were denied to Protestant Non-conformists, while other privileges of citizenship were denied to Roman Catholics, until both were emancipated by the irresistible pressure which the Liberal Party brought to bear even on Conservative ministers. Freedom of trade was carried by means of Liberal agitation, so ably and persistently conducted as to convert another Conservative minister, who speedily paid the price of his patriotism in expulsion from office, and who has never been forgiven by that Party which had originally imposed the Corn Laws and so long idolized the principle of Protection. Freedom of labour cannot be said to have existed in England until the restrictions imposed on the independence of labourers by the Poor Laws and Combination Laws were removed by a series of Liberal measures, culminating in the Union Chargeability Act, so bitterly opposed by the Conservatives, and the Trade Union Acts of 1871, which the present Home Secretary has extended in accordance with the proposals of Mr. Lowe. Freedom of education—in the sense of free participation in State grants and public endowments—is not even yet fully assured to all creeds in this country; but it is the Liberal Party, and the Liberal Party alone, which, step by step, has succeeded in banishing tests from elementary schools, from the universities, and from many, though not from all, of the endowed schools. Freedom of voting has always been a Liberal watchword, as the

use of "legitimate influence" has been always justified by Conservatives; and, though many Liberals prized open voting even more than free voting, a majority of the Party adopted the secret ballot as the one effectual remedy against coercion and intimidation. Nor can we omit to notice the intuitive sympathy with freedom of thought which in all ages has been characteristic of political reformers. Men who have been used to let their minds play freely round the fundamental questions of politics, and men who have been used to speculate freely on the fundamental questions of religion or philosophy, cannot but feel a mutual respect and affinity. Herein lies the secret of that natural alliance between Liberalism and science which is so mysterious to Conservatives, but which permanently enlists the most powerful intellects in the nation on the Liberal side.

3. A belief in the Principle of individual liberty naturally begets a belief in Self-government, as applicable alike to nations and to local communities. The old maxim of benevolent despotism—"Everything for the people, and nothing by the people" is the exact antithesis of this Principle. Liberals maintain that everything which can be done by the people ought to be done by them, and that political institutions depend less for their value upon mere administrative results, than upon their efficacy as expressions of popular will, and instruments of popular education. It was on this distinct ground that Liberals repelled Tory arguments against the so-called "degradation" of the suffrage; and it is upon this ground that Liberals would fain revive the old spirit of self-government in counties and even in parishes. But although Liberals recognize Self-government as an end in itself, and not merely as a means to efficient administration, yet they can appeal to centuries of experience in support of the conviction that men are in general the safest guardians of their own interests, and the wisest managers of their own affairs. From a Liberal point of view, to claim infallibility for the State is almost as absurd as to claim infallibility for the Church, and the public good is best consulted by leaving both individual citizens and local communities to govern themselves as far as possible. But Liberals do not forget that in this country the State, unlike the Church, is itself the highest

organ of Self-government, and must needs lay down rules for the mutual relations of local communities as well as of individual citizens. Liberals do not hold that either local communities or individual citizens have an abstract right to manage their own affairs, or that where the interests of others are involved with their own, they can be trusted safely to do so. Such notions are more in harmony with the French theory of individualism and with the American theory of State-right than with the historical growth of civil liberty in England, side by side with an ever-widening supremacy of law over custom, and of the nation over local authority. It is not Liberalism which benevolently allows each man to endanger his neighbour's health by keeping up some favourite nuisance, or to sell his neighbour adulterated goods with impunity; still less is the old doctrine of *laissez faire*, under its new form of permissive or "empowering" legislation, to be reckoned among distinctive Liberal Principles. Local self-government, like individual liberty, is cherished by Liberals so far, and so far only, as it is consistent with the paramount rights and duties of national self-government, and no true Liberal shrinks from vindicating the sovereignty of the legislature, when it is duly exercised for the common good of all.

It is probably this last opinion to which Lord Derby alluded, when he spoke of a strong inclination towards "democratic despotism" as a very marked feature of "the new Radical creed." Now, it may be remarked in passing, that "democratic despotism" would at least have this advantage over monarchical or oligarchical despotism—that a majority of the people would be more likely to understand and study the real welfare of the whole than a small minority or a minority of one. Still, even "democratic despotism" would be treason against political liberty, and Lord Derby's warning on this subject was not altogether unseasonable. No doubt a disposition has lately manifested itself to rebel against the sound but unsentimental rules of political economy, and to seek for social improvement by the shorter method of State intervention. The usual excuse for such intervention is that long arrears of legislation must needs be made up without delay, and that it is but equity for Govern-

ment to redress in one age evils which Government may have fostered in another age. The sound distinction between acts which affect the individual only and those which affect his fellows also is forgotten or ignored ; legislative prevention of crimes and injuries is confounded with legislative control of commercial transactions. Because compulsory vaccination may be justified as a necessary safeguard of public health, and compulsory education as a means of rescuing neglected children from vice and crime, it is assumed that some good and no harm can result from a compulsory regulation of agricultural contracts or of ship-building. Protectionist fallacies of this kind may or may not form part of some "new Radical creed" known to Lord Derby, as they assuredly form part of the delusive visions held out by less scrupulous Conservatives than Lord Derby to credulous working men. But they are flagrantly at variance with Liberal Principles, and have been steadily discouraged, at no light sacrifice of popularity, by the responsible leaders of the Liberal Party.

4. Next among the distinctive Principles of Liberalism must be placed the pregnant, but thoroughly constitutional, idea of Equality—not of social but of civil equality—of that equality before the law to which all the subjects of a British sovereign have as good a right as all the citizens of a Greek republic. Liberals know as well as Conservatives that men are not born equal in ability, in virtue, or in the prospects of fortune which depends on parentage. What they fail to understand is, why these startling contrasts between the original lot of Dives and of Lazarus should be aggravated, rather than mitigated, by the effect of human laws. They are fully aware that, in a country like our own, where feudal traditions are still potent, and where the ambition of founding a family is the besetting weakness of every *parvenu*, the custom of Primogeniture unless directly forbidden by law, is likely to prevail for many generations. But they do not see either the justice or the expediency of consecrating this custom by legislative enactment—of prescribing, in the case of descent on intestacy, and of favouring, in the case of family settlements, the practice of accumulating all landed property upon the eldest son. They acknowledge that in filling

never
the higher posts of the civil, naval, and military service, a large discretion must be left to patronage, and therefore a wide door opened to nepotism and jobbery; they perceive, also, that no precaution can deprive rich men's sons of the lion's share in the distribution of clerkships by literary competition. But these considerations do not lead them to regard a reckless distribution of great offices with any satisfaction, or to neglect the only measures through which promotion by merit can be effectually substituted for the caste system in the army, navy, and civil departments. On the contrary, the Liberal Party, with the aid of one or two enlightened Conservatives, has at length succeeded in establishing competitive examinations as the one avenue to inferior posts in the civil service; while the same Party, opposed by the whole Conservative force, carried the abolition of purchase in the army, and vainly strove to defeat the reactionary designs embodied in the Army Exchange Bill and the new regulations for the appointment of naval cadets. Liberals, again, are perfectly conscious that, however complete may be the legal equality of electors, the practical influence of education, of property, and of mere notoriety will make one voter's support worth a hundred or a thousand times as much as that of another. But this does not prevent their regarding all their fellow-citizens as "their own flesh and blood," or reconcile them to a carefully packed representation of "interests," or cause them to favour schemes for enabling the few to outvote the many. They appreciate the prodigious advantage which the Church of England possesses by virtue of its history, its corporate revenues, the perfection of its organization, and the learning of its clergy, over and above that which it derives from its connection with the State. But this did not seem to them a good reason for extending to Church affairs the maxim, "To him that hath shall be given, and from him that hath not shall be taken away;" they protested loudly against the exaction of church-rates from Nonconformists, as well as against the exclusion of Nonconformists from educational endowments, and they now protest against the prohibition of Nonconformist services in parochial churchyards.

These are a few typical specimens of the mode in which the Liberal Principle of civil Equality has been applied by the

Liberal Party, not in levelling down, but in levelling up, not in weakening the strong, but in strengthening the weak, not in destroying the power of natural superiority, but in breaking down the artificial barriers raised between man and man by Privilege, Monopoly, and Ascendancy. If this be democracy, then Liberal Principles are democratic, and the opposite of democracy, in this sense, however it may be disguised, is neither more nor less than oligarchy.

5. Closely akin to a belief in civil Liberty and a belief in civil Equality, is a fourth Liberal Principle which is difficult to describe in a single word or phrase, but which is deeply rooted in every Liberal mind. This principle is an immutable respect for human nature as such, not merely because Christianity invests every human being with the majesty of immortality, but also because experience has shown that every race and every type of mankind is endowed with noble qualities and capable of almost infinite elevation. It was this respect for human nature and human destiny which leagued itself with the idea of liberty to crush slavery. It was this which annulled the Draconian code assigning death as the penalty of two hundred and thirty-eight offences; teaching men that even criminals have claims on society, and that if repression is the primary, reformation is the secondary object of punishment. It is this which inspires Liberals with a manly aversion to the punishment of the lash, the use of the branding-iron, and the infliction of any needless personal indignity even on the outcasts of society. It is this which has enlisted so many Liberals on the side of labour in its struggle for independence, and which is ever on the watch against the judicial oppression which is still occasionally practised at petty sessions. It is this which has gradually introduced humanity into our relations with savage tribes, and forbearance into our relations with subject populations, which has saved the Maories of New Zealand from extermination, and which sternly condemned the atrocities perpetrated under the rule of martial law in Jamaica. It is this also, and not either a blind partiality for Russia or a blind hatred of Turkey, which rallied the Liberal Party into an almost unanimous protest against casting the ægis of England over the

cruelties of Turkish despotism under the pretence of a "Spirited Foreign Policy," and which urged, if it did not force, the Government to change its attitude on the whole Eastern question.

The love of Peace, which has so nobly characterized the Liberal Party since the age of Fox, sometimes curbing the aggressive impulses of British commerce in Asia, and often restraining us from disastrous intervention in Europe or America, has its main origin in a cognate Principle. If Liberals alone refuse to regard war as a permanent institution, and are ever seeking to diminish its causes, it is not because they prefer material prosperity to national greatness; it is because they have a worthy conception of national greatness, because they cherish a sentiment of international fraternity which Lord Beaconsfield derides as "cosmopolitan jargon," and, above all, because they can sympathize with the suffering and toiling masses who have everything to lose and nothing to gain by military glory. From a like source there springs that generous confidence in popular intelligence and sense of right which convinced Liberals that, in spite of Conservative maledictions, the republican bubble had not burst in America, and that no United States Government supported by the American people would ever be guilty of repudiation; which has always actuated Liberals in dealing with the parliamentary and municipal franchise, and which fortified Liberals against the Conservative fear of a cheap newspaper press. And as Liberals believe in public virtue and national conscience and international morality, so they believe in the honest and independent exercise of human reason. Upon this belief reposes the sturdy Protestantism of which Liberalism is the political counterpart, which thinks nobly of the human soul, and which holds, in opposition to Romanism, that, on the open field of inquiry, truth, and not error, must in the end prevail. This is why Liberals are too plausibly accused of optimism, and occasionally lend too ready an ear to schemes of world-bettering. Looking upon what men have done as "the earnest of what they yet may do," knowing that by the efforts of human intellect civilization has been evolved from barbarism, sanguine Liberals may be tempted, indeed, to expect too much from similar efforts organized under more scientific guidance,

but their hopefulness is in itself a motive power of untold value, and their steady faith in the future generally raises them above short-sighted views of the present.

6. It may well appear somewhat presumptuous to class an habitual regard for Political Justice among distinctive Liberal Principles, and it would indeed be absurd if the Liberal Party should arrogate to itself the sole possession of this sentiment. Nevertheless, facts go far to prove that justice is a governing idea of Liberal policy in a sense which is not merely foreign to Conservative policy, but which Conservative politicians have often laughed to scorn. All the Reform Bills supported by the Liberal Party, including two Irish bills introduced by Mr. Butt in the Session of 1875, have been advocated mainly on grounds of political justice, and opposed by the Conservative Party on grounds of naked expediency. The Irish Church Act was essentially based on considerations of justice and not of selfish utility, for it was foreseen that it would fail to conciliate Irish Catholics and would provoke bitter resentment among Irish Protestants. The Washington Treaty, with the expression of national regret which it embodied for the first time in diplomatic history, was entirely dictated by the sentiment of justice. Mr. Gladstone's Cabinet was not weak enough to suppose that so high-spirited a people as the British people would relish a virtual acknowledgment of having been in the wrong; but they were convinced that in the single case of the Alabama we had been in the wrong, and they had the manliness to make the amende honorable on behalf of their countrymen. It would be easy to cite other unpopular acts of Liberal Governments, for which no other motive than a sentiment of justice can be imagined, and into which no Conservative tactician like Lord Beaconsfield would ever have been thus betrayed. On the other hand, it would not be difficult to cite unjust acts of Conservative Governments for which no particular motive can be imagined, but of which no Liberal minister could have been guilty. But perhaps the most suggestive example of the difference between the Conservative and the Liberal standard of political justice is to be found in the much greater fairness of Liberal warfare in opposition. It has been said that Mr. Gladstone's administration was "lied out of

office ; " and though such a statement may be too unqualified, it is certain that no resource of factious intrigue or calumnious mendacity was left untried by the Conservative party. Instead of retaliating, the ex-ministers in both Houses, under the leadership of Lord Granville and Lord Hartington, have frequently befriended Lord Beaconsfield's Government in their parliamentary difficulties, have commented with great moderation on their official blunders, and have sometimes carried forbearance to excess where abuses of patronage, characteristic of all Conservative administrations, ought to have been publicly exposed. After duly considering this, let any impartial man compare the present courteous tone of the Liberal press with the unscrupulous language employed by the Conservative press during the last Parliament, and he will be driven to conclude that fair play in political controversy is a distinctive Liberal Principle.

7. One more Liberal Principle remains to be mentioned, which of late years has become the most distinctive of all—the deliberate preference of national interests over all minor interests, whether of classes, of sects, of professions, or of individuals. At first sight this principle, like the last, so closely resembles an elementary precept of public morality, that we may hesitate to treat it as characteristic of one party rather than another. Unhappily, experience has shown that no principle is more at variance with the spirit of Conservative policy, as there is none which promises less ephemeral popularity to any party which honestly observes it. In old times, a corrupt expenditure of a few thousand pounds would buy the support of a powerful family or a parliamentary seat of priceless value to a ministry, without appreciably injuring the pocket or the feelings of a single voter, and not the smallest particle of national gratitude was to be earned by abstaining from it. So, in these days, it is far more profitable to propitiate a class at the expense of the nation, than it is to serve the nation at the expense of a class. The apostles of free trade were fortunate enough to array the interests of one class against those of another, and for once to persuade the people that all of them would gain, as consumers, by cheapening imports, while only a section of them were gaining, as producers, by Protection. It is seldom, how-

*impractical
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wrong line*

ever, that a political lesson can be so closely brought home, and the fate of the last ministry suffices to show at what a cost the Liberal principle of subordinating particular to national interests must generally be maintained. In dealing with the Irish Church and the Irish land, in reforming the licensing system, in abolishing army purchase, in regulating educational endowments, in remodelling the judicature, in reducing their own patronage, in enforcing economy in all branches of the public service, and still more in the general tenor of their whole administrative policy, Mr. Gladstone and his colleagues were guilty of sheer Quixotry in the eyes of Conservatives ; for they had actually offended or alarmed the clergy of the Established Church, the landlords, the brewers and publicans, the officers of the army, the local trustees of schools, the lawyers, the clerks in public offices, and the waiters upon Providence, without benefiting any one—except the nation. We have since had an excellent illustration of policy based on the opposite principle. By relieving English publicans from some of the restrictions on disorder and drunkenness, by talking out the Irish Sunday Closing Bill, by legalizing bargains for regimental exchanges, by restoring the nomination system for naval cadetships, by revising the Adulteration Act, by mutilating the Judicature Act, by suppressing the Endowed Schools Commission as an independent body, and by increasing State grants to voluntary schools, Lord Beaconsfield and his colleagues did their best to appease most of the classes “harassed” by their predecessors ; and all this, too, without injuring any one—except the nation.

The preference of public to private rights, where they come into collision, is but a corollary of the same principle. In the eyes of a Liberal, it is nothing less than iniquitous that private individuals should be able to defeat railway-schemes, drainage-schemes, and other improvements necessary for public health or convenience ; that useless offices cannot be abolished without pensioning off their occupants on full salaries ; that such a measure as the Agricultural Children’s Act should be made a dead letter to save the pockets of farmers ; that cattle-owners should be compensated twice over, at the expense of consumers, for losses by the rinderpest ; or that the revenues of corpora-

tions, like the London Companies, should be left at the private disposition of their members, present and future. It was not Liberal members of Parliament that cheered the insolent self-laudation of a shipowner who had compromised the neutrality of England for the sake of commercial profit. It was not a Liberal Government that contrived to undo the beneficent legislation of 1844, and relieve the owners of noxious manufactories in London from the statutable obligation to remove them in the year 1874; nor was it a Liberal Government that showed the cloven foot of favouritism on the question of savings-bank accounts. Nay, more—it was once a Liberal paradox that property has its duties as well as its rights; and it is still a Liberal paradox that proprietary rights, like all other rights, were created by law for the benefit, not of individuals, but of the entire community.

But this distinction between Liberal and Conservative ideas is more clearly marked in everyday administration than it is in legislation, and in those details of administration which are not seen than it is in those which are seen. The sinister Conservatism of modern times, which seeks to mar the effect of Liberal measures which it dares not attempt to repeal, saps the very foundations of administrative public spirit. When a Conservative Government comes into office, there is not a public servant, civil or military—from the admiral or general to the humblest sailor or private, and from the heads of departments to the lowest clerk or messenger—who does not receive the impression that strict vigilance is no longer the order of the day, that national requirements are no longer to domineer over private claims, that England no longer expects every man to do his duty, but only hopes that he will do so. The evil consequences of this impression are not felt at once. For a while it appears that it is possible for a Government to scatter and yet to increase, to serve its friends and the nation with equal fidelity, to reap efficiency without sowing purity and economy. But a time surely comes when the estimates are mysteriously swelled, no one can say how, and there is less than ever to show for the outlay; when the fruits of Liberal policy have been consumed; when one class after another manifests signs of disappointment;

and when the nation, roused from its indolent good-nature, realises that a paramount regard for national interests is, after all, the only principle on which national interests can be permanently secured.

III.

Those who recognize the Principles here laid down as distinctively Liberal, and have entered into their full meaning, will find it difficult to discuss with a grave face the notion of Liberal Principles having been recently merged in the nebulous mass of "Conservative principles." For where, let us ask, are these Conservative principles, and who shall either find the centre or describe the circumference of their orbit? Assuredly, Conservative principles, if they ever existed at all, have long since been invisible to the naked eye, and the want of them is not supplied either by a community of party instincts or by the good sense and honesty of individuals. Church-and-King Toryism was at least positive, but the Conservatism now in vogue is not merely a system of negations, it is a system of negations which is constantly fluctuating with the subtraction of old and the addition of new tenets, as political expediency may require. If ever the modern Conservative Party had a fixed conviction, this conviction was that it was their mission to stem the flood of democracy; and even when Lord Beaconsfield had educated them into perceiving that it would be a shrewder game to manipulate the democratic movement, and outbid their opponents, three Cabinet Ministers felt it their duty to resign, and more than one of those who retained office solemnly pledged himself never to accept household suffrage without certain definite safeguards. Within a few weeks these safeguards were thrown overboard, and these pledges broken without so much as a blush; the scruples of the weaker brethren who had seceded from the Government had become a subject of pity rather than of respect in Conservative society; and the Prime Minister, enjoying the unbounded confidence of his Party, openly boasted of having taken a leap in the dark—a leap which might imperil the British Constitution, indeed, but which could not fail to "dish the Whigs." It was no Radical enemy, but a familiar

friend of the Conservative Party, who, still writhing under the humiliation of 1867, described its creed as a marvellous compound of political bigotry and political infidelity. At all events, after this signal exhibition of Conservative morality, only to be matched by the conduct of the same party on the Conspiracy Bill of 1858, it would be idle to seek anything like a principle in the negative professions of Conservatism, while the subtlest analysis will equally fail to detect anything like a principle in its affirmative manifestoes. The Queen's Speeches of 1874, 1875, 1876, and 1877, the parliamentary and ex-parliamentary utterances of Conservative members, and the election addresses of candidates, may alike be ransacked without discovering a single fixed conviction, by which modern Conservatism would be willing to stand or fall.

There is, however, one maxim of state-craft which, in the absence of principles, governs and controls all the manifold aberrations of Conservative policy. This maxim was understood and formulated by the arch-Tory of Queen Anne's reign, whose unprincipled career and Machiavellian philosophy have not been without their attraction for the present Conservative leader. "*We supposed the Tory Party,*" says Bolingbroke, "*to be the bulk of the landed interest, and to have no contrary influence blended into its composition.*" No more accurate description of Conservatism, as it exists at the present moment, could be devised by Lord Beaconsfield himself. Conservatism in England is neither more nor less than *government by the landed aristocracy*, and we seek in vain for any "contrary influence blended into the composition" of Lord Beaconsfield's Cabinet or Lord Beaconsfield's policy. Every single Cabinet Minister is either a peer or a county-member, with the exception of Mr. Gathorne Hardy, who, although an University member, is essentially a country gentleman by position and character. Out of the numerous measures, useful or mischievous, which have been introduced by the Government during the last three years, scarcely one has been such as to menace the interests or offend the prejudices of the landed aristocracy. The strict rights of proprietorship have been wisely set aside to improve artizans' and labourers' dwellings in large towns, but Mr. Cross did not

venture to extend the same protection to labourers in country villages, or even in towns with a population of less than 25,000; lest he should displease the country gentlemen. The farmers' claim of tenant-right was given a kind of legal sanction by the Agricultural Holdings Act, but an absolute power of contracting themselves out of the Act was secured to landlords in deference to political economy, by a party which cordially hates that science as the invincible ally of Liberal Principles. The preservation of commons was the professed object of the Commons Regulation Act, but care was taken to make its remedial provisions inoperative against landowners by giving the lord of the manor a peremptory veto upon "regulation." Great anxiety was shown to reduce the burdens of local taxation, alleged to press unduly upon landowners as well as farmers, but very little anxiety has been shown to reform comprehensively the system of local government in counties, which is mainly conducted by great landowners in their capacity of non-elective magistrates without the assistance of farmers or small landowners. In the treatment of minor questions, such as the preservation of ancient monuments, or of bills for sanctioning local improvements, the same prevailing bias is still more clearly manifested by the Conservative Party, and it would be difficult to cite an instance in which an abuse of jurisdiction by a county magistrate has been exposed by a Conservative member of Parliament. The more thoroughly we study the records of Conservative policy, the more clearly do we perceive this belief in the divine right—not of the Crown but of the landed aristocracy—to be the one cardinal article of Conservative faith, and the 'one key to Conservative legislation. What the landed aristocracy may do with their power, so long as they do not turn it against themselves, is apparently a secondary consideration in the eyes of Conservative politicians, and we have no reason to suppose that any assurances which they may now give us of hostility to household suffrage in the counties, or even of fidelity to Church and State, will be held more sacred than their repeated vows never to support a degradation of the franchise in boroughs. True, it is almost impossible to imagine the Church Establishment being deserted by the Conservative Party so long as the

present system of Church patronage is upheld, but it is very easy to imagine a profound alteration in the sentiments of Conservative squires towards clergymen, if clergymen were in any sense representatives of the parishioners, or even nominees of bishops. Those who could indorse the semi-communistic programme of the "New Social Alliance," or who see nothing unconstitutional in female suffrage, are not men to stick at political trifles, and irksome traditions of old-fashioned Toryism will be cast off as lightly as the Slave Circular was retracted, or the farmers rebuked for continuing to agitate against the malt-tax. It is, indeed, this very incapacity of seeing the difference between principles and expedients, between wise measures and dexterous manœuvres, which makes a Conservative administration so dangerous, and justifies the hopes which the promoters of revolutionary crotchets repose in its unlimited pliability.

IV.

But it may reasonably be asked why Liberal Policy is now in abeyance if Liberal Principles be living principles, and whether they are of any practical value in their bearing on the politics, not of the remote future, but of the present? The first of these questions admits of a simple answer. Liberal Policy is now, and may continue awhile to be, in abeyance, owing to a concurrence of causes which imply no weakness in Liberal Principles. In the first place, no Party in Opposition is bound to formulate a schedule of the measures which it would endeavour to carry, if it should regain power at some indefinite period. The late Sir Robert Peel said that he was not in the habit of prescribing before he was called in, and Lord Beaconsfield once intimated, with more amusing frankness, that it would be absurd to expect a declaration of policy until he should get access to the pigeon-holes of the public offices. Even if the Liberal Party had now a leader with as full an authority as Lord Beaconsfield then possessed, he would show little discretion by disclosing gratuitously, to friends and enemies alike, the plan of his next campaign. But it is no secret that party-discipline has never been too strictly enforced among Liberals, and, since the retirement

of Mr. Gladstone from the post of leader, the system of fighting in loose order, encouraged by the prudent tactics of Lord Hartington, has disguised the real capacity of the Liberal Party for combined movements. After all, too, however clearly the objects of a prospective Liberal policy may be defined in the minds of those who must hereafter be called upon to shape it, unforeseen circumstances must determine which of such objects should be put in the foreground and which left in the background when the proper occasion arises. One of these circumstances is the state of that popular sentiment miscalled public opinion. A nation, like an individual, has its nobler and its duller moods; and so long as the people at large manifest no aspiration towards a higher political or social condition, there is no room for a Liberal policy worthy of the name.

It is not, however, to be disguised that real and practical differences of opinion divide the various sections of the Liberal Party from each other. There are those who hold the separation of Church from State to be the first and most urgent duty of Liberal statesmanship, and there are those who advocate the extension of household suffrage to counties as the keystone of future Liberal policy, while there are those who deprecate both these measures as either mischievous or premature. There are those who advise the Liberal Party to stake itself upon effecting organic changes in the Constitution, such as the abolition or sweeping reform of the House of Lords, while there are those who think it safer to keep great noblemen in the House of Lords than to risk having them in the House of Commons, and who prefer an unreformed House of Lords because it is less capable of resisting the popular will. There are those whose test of Liberal orthodoxy is the adhesion to schemes which they cherish as vitally affecting the moral or social good of the community, but which they know to be condemned by other members of the Liberal Party; while there are those who consider it better generalship to select as rallying points, not those positions which a few Liberals may be eager to defend with their lives, but those positions around which the whole Liberal army can be marshalled in battle-array.

Such differences, so long as they prevail, are doubtless

adverse to party discipline ; but must they of necessity prevail for ever, and shall the harmonious unity of Liberal Principles result in no possible unity of Liberal action ? To answer this, we must touch, however briefly, on certain open questions of Liberal policy ; and since it would be of no avail to discuss those of lesser difficulty, let us grapple at once with those which appear to divide the Party most, not for the purpose of pretending to solve them, but for the purpose of ascertaining whether they are really incapable of solution by the light of Liberal Principles.

1. To begin, then, with the county franchise—what do Liberals and Conservatives respectively think of its extension to all ratepaying householders ? The Conservative is naturally averse to it, hating every approach to manhood suffrage, viewing the political emancipation of agricultural labourers with unfeigned distrust, and fearing lest they should combine with Radical artisans, under the influence of agitators, against landlords and farmers. At the same time, if Lord Beaconsfield were quite sure that it would succeed as a party manœuvre, he might prepare himself for another leap in the dark, hoping that, on the whole, the votes of the more enlightened labourers would be neutralized by those of the illiterate residuum. The Liberal instinctively looks at the question from a precisely opposite point of view. Without laying any stress on abstract rights, he regards it as a source of national strength that as many citizens as possible should take part in politics, and feels ashamed that almost the whole class of husbandmen should have been disfranchised, on the plea of incompetence, for three centuries after the Reformation. He may or he may not agree with Mr. Trevelyan in considering them as having now attained their political majority ; but, if not, he is only the more eager to promote their political education, welcomes gladly every sign of growing independence, and only dreads lest the more intelligent labourers should be swamped, as the Conservative hopes, by those who vote at the bidding of employers, publicans, or ministers of religion. In short, the differences among Liberals on this subject are mere differences of judgment about the proper time of doing what all desire to see done. Every year inevitably lessens

the degree of such differences, and it is morally certain that, before many sessions have passed, the Liberal Party will be united, either in extending the county franchise, or in converting into a reality some illusory extension of it to be proposed by the Conservative Party.

2. Take, again, two groups of questions more intimately connected with each other than is generally realized—the questions which relate to land and local government respectively. What Liberal defends the present law of primogeniture or power of strict entail, the cumbrous formalities which favour the aggregation of landed property and prevent its dispersion, the inadequate security against encroachments on common rights, the feudal spirit or the magisterial administration of the game laws? On every one of these points, it is true, diverse opinions might be culled from Liberal speeches and writings, as diverse criticisms were offered by Liberals on the Agricultural Holdings Bill. But does any one doubt that if a well-matured remedy for all or any one of these anomalies, so dear to Conservatives, were brought forward by a responsible Liberal Government, it would command the loyal support of the Liberal Party? In the same way, Liberal borough members cannot be expected to adopt precisely the same view as Liberal county members of local government and taxation. No political connection will obliterate the natural distinction between urban and rural interests, but then no rational ministry, chosen from the Liberal Party, would ignore that natural distinction, while the revival of self-government in country districts, and the concentration of municipal authorities in towns, would command a cordial assent from all sections of the party. A Whig nobleman is, of course, better satisfied than a Radical alderman with the present stratification of society and distribution of powers in counties; but the Whig nobleman, like the Radical alderman, believes in progress, in liberty, in self-government, in civil equality, in the prevailing virtue and good sense of his countrymen, in political justice, and in the supremacy of national over private ends. For him, therefore, a reform of county-government in a democratic sense has no terrors, especially if accompanied by such changes as may attract into the service of local government,

both in counties and in municipalities, the rightful aristocracy, not of birth or of wealth, but of education. There is some reason to believe that, if Mr. Gladstone's administration had remained in office, a popular and comprehensive settlement of these questions relating to land and local government would have been its next great enterprise. As there is very little danger of such settlement being effected by Conservatives, in spite of the concessions made on Mr. Read's motion, it remains for Liberals to consider whether these questions, perilous as they may seem, are not really among those upon which there is most practical convergence of Liberal opinion.

8. But even supposing that Liberal Principles afford a solution of the county franchise question, the various land questions, and the questions which concern local government, what are we to say of the education question? Let us say, boldly, what is the simple truth, that on no other political question is the essential agreement between Liberals so profound, as on no other have their superficial differences been so grossly magnified by themselves as well as by their opponents. All Liberals concur in regarding primary education as the imperative duty not only of parents but of the State. All would prefer a municipal to a voluntary or denominational system of school government; all would object to giving one child, by reason of its parent's creed, any advantage over another in respect of secular teaching, and nearly all would object to excluding religious teaching from schools aided by public funds. Every one of these conclusions is a simple deduction from the Liberal principles of liberty, civil equality, and confidence in the people; every one, except the last, has been stoutly controverted by Conservatives. Then what is the extent of the differences which are paraded as if they admitted of no compromise? That some Liberals were for giving more favourable, and some for giving less favourable, terms to existing schools on the voluntary system, which it was evident must sooner or later give way to schools on the municipal, or School Board, system. That Mr. Forster often spoke, and sometimes acted, as if his object were to "supplement" the voluntary system, whereas the object of many Liberals was more or less gradually to supersede that system—which has actually

been, and could not fail to be, the effect of his measure. That some Liberals desired to make education universally compulsory from the first, while others thought it wiser to proceed by steps, and to cover the country with good schools before compelling all children to go into them. Surely, we must needs confess that Liberal Principles have little to do with common sense if differences so trifling and so transitory could produce a perpetual rupture in the Liberal Party. The fact is that, at the present moment, this rupture is at an end for all purposes of political action. All sections of the Liberal Party were united in opposing the obnoxious clauses embodied in Lord Sandon's Education Bill of 1876, whereby denominational schools were enabled to support themselves, chiefly at the expense of the State, without the aid of voluntary subscriptions. The signal victory of the Liberal Party at the London School Board elections of 1876 was the reward of this union, and was followed not long afterwards by the dissolution of the Education League, which, by this public-spirited act, abandoned the position of an irreconcilable minority, and merged itself in the great body of the Liberal Party. Nothing, therefore, now stands in the way of a general advance for the complete organization of education, primary, secondary, and academical, on a truly Liberal basis. For Liberals value national education as the most powerful corrective of social irregularities and theological prejudices; they protest, as one man, against stereotyping the isolation of classes and sects in schools and universities; and they will never cease to resist the bigotry which treats dogmatic antipathies as if they were grounded in religion and morality.

4. In this spirit they will unanimously reconsider the far more formidable question of the relation between Church and State, whenever it shall become necessary to deal with it by legislation. Here, if anywhere, the Liberal Party is supposed to be rent asunder by a schism which cannot be healed. Here, therefore, if anywhere, the cohesive power of Liberal Principles may be tested, and there are many good Liberals who tremble for the result. Now, one thing is certain that hitherto no divergence of ulterior aims has prevented Liberals from moving together, with unbroken front, in the direction, not only of

religious liberty, but of religious equality. In the emancipation of Nonconformists from civil and political disabilities, in the abolition of tests, in the demolition of the Irish Church Establishment, in the consistent assertion of national rights against sectarian privilege in every department of public administration, in the universities, in endowed schools, in elementary schools, and in parochial burial grounds, the Liberal Party has acted in concert with a singleness of purpose which betokens no very profound antagonism of ecclesiastical sentiment. But we may go a step further. All Liberals are united in hostility to those reactionary tendencies, inseparable from the present system of Church-patronage, which, in many parts of the country, render the Established Church an outwork of territorial influence. All Liberals repudiate those sacerdotal pretensions which formerly sheltered themselves under arbitrary prerogatives of the Crown, but now exhibit themselves in an insolent defiance of that secular authority which is the sole foundation of Church establishments. All Liberals look upon Churches as made for the people, upon clergymen as ministers of the people, and upon ecclesiastical endowments as the property of the people. Nevertheless, it is not to be denied that if, at this moment, the Liberal Party were compelled to decide between a root-and-branch measure of Disestablishment and Disendowment, on the one side, and the maintenance of a National Church, on the other side, Liberal union would be subjected to a most perilous strain. Happily, no such immediate and trenchant decision is forced upon it, and we may feel tolerably confident that before the Church-question is ripe for legislative settlement, the conditions upon which it must be settled will have shaped themselves more clearly.

In the mean time, we may find it instructive to examine the position of a Liberal who thinks it expedient to maintain the Church of England, not for the sake of its doctrinal teaching or episcopal constitution, but for the sake of religious liberty and of national interest. Such a Liberal will heartily recognize the merits of self-government, ecclesiastical as well as civil, and may well envy Presbyterians that habit of popular control over Church affairs which is the strongest and

healthiest root of Scotch Liberalism. He will freely admit that acting gregariously, in Convocation or elsewhere, the clergy of the Church have generally been on the side of reaction, and sometimes of oppression. He will admit further that a zealous and influential section of the clergy is bent on divesting the Church of its Protestant character, and making it an instrument of the Romish propaganda. These considerations, however, instead of inclining him to disestablishment, convince him that disestablishment would be fraught with national danger. He knows that, by virtue of its connection with the State, the Church of England is penetrated with lay ideas beyond any other communion in Christendom, and that a severance of this connection is the darling object of those who desire to convert its clergy from ministers of the people into a true sacerdotal order. He does not forget that, whereas Convocation is impotent to alter the doctrine or discipline of the Church in the minutest particular, the national Legislature is omnipotent to modify both as it may see fit. He foresees that what is called disestablishment would practically mean the establishment by law of a vast and irresponsible corporation, separated from the nation for the first time in English history, but endowed with so enormous a share of national property that it would become a menacing power in the State, holding a fortress in every parish, and commanding all the grandest ecclesiastical buildings in England. This corporation, he cannot but fear, would be clerical and episcopal in a sense of which England has yet had no experience, for the secular ministrations now undertaken by clergymen as servants of the State would then be merged in public worship and religious instruction, while in any future synod a preponderance would certainly be secured to clerical votes over lay votes, and to the votes of bishops over those of the inferior clergy. The example of Scotland and America does not encourage him to hope that a Church so constituted would be less exclusive socially or less aristocratic in its spirit than the present Church of England—that it would contain a larger or nearly so large a proportion of philosophical thought and enlightened charity. The example of Holland and Belgium teaches him that Ultramontanism is strong where Erastianism is weak,

and observations made nearer home warn him to beware lest, in clutching at a phantom of religious equality, he should let go the substance of religious liberty. For these and like reasons, each of which constitutes a good Ritualistic argument in favour of disestablishment, he looks upon the Radical demand for disestablishment as no legitimate expression of Liberal Principles. He can easily understand why the High Church party should treat Comprehension as an exploded chimera, should deprecate all Parliamentary interference with Church-government, and should be willing to invest a sectarian fragment of the nation with that power over the ancient Church of England, which the whole nation actually possesses and ought to exercise. What surprises him is that such an alternative should commend itself to any Liberal, and he would fain suggest for the consideration of the Liberal Party three very simple queries, which often recur to his own mind :—Whether the wisest Churchmen are not prepared to popularize and reform the Church system to any extent that may be necessary in order to harmonize it with the political development of the nation and the spiritual wants of each local community?—Whether the wisest Nonconformists are not prepared to accept such an ecclesiastical settlement as would bring Church affairs, with the disposition of national Church property, within the sphere and under the effective control of local government?—Whether the gulf between these lines of Church-reform is so impassable that no statesmanship, though inspired by Liberal Principles, can ever bridge it over ?¹

It thus appears that on the most important issues of current politics, and even on the most intractable of all, the unity of Liberal Principles is not only distinctive enough to repel amalgamation with Conservatism, but definite enough to indicate, at least, a basis of united Liberal action. Nothing but degeneracy in the Liberal Party can long arrest the revival of such action, for the necessity for it is as urgent as ever. As we survey the world around us, we cannot flatter ourselves that Liberalism “has attained the *euthanasia* of political theories, and passed from the agitation of controversy into the dignified repose of tacit recognition.” While the air is thick with communistic

¹ This paragraph was not contained in “Liberal Principles,” as published in 1877.

projects, and Conservatives are troubled with visions of a coming democracy, while vast masses still remain equally destitute of political education and of political representation, and while the contrast of wealth and poverty is as portentous as ever, the prospect of Liberal Principles becoming obsolete seems almost as remote as that of gravitation being superseded by some higher law of nature. Doubtless it is possible to imagine a new order of things in which these principles shall perish, as it were, of inanition, when there shall be no further advance to be made, no liberties to be vindicated, no inequalities to be removed, no rights of humanity to be upheld, no wrongs to be redressed, and no private interests to be overruled for the public weal. Enough for us that such a consummation is neither within our grasp nor within our view, that fresh heights are ever rising before us on the horizon, and that, now as ever, Liberal Principles are the only principles by which the great movement of national life can be safely guided towards its unknown destination.

LIBERALS AND WHIGS.¹

1878.

THE present weakness and disunion of the Liberal Party admit of many explanations, and many have been the proposals for its regeneration. Of these, none has been more ably advocated, or more heartily embraced by the Radical section of the party, than the proposal to emancipate it henceforth from Whig influences. This is not the first time that such advice has been offered to Radicals in the hour of trial, but the wisdom of it is certainly not self-evident. If an army were numerically so inferior to the enemy that it could not risk an engagement in the open field, it would be thought a strange piece of generalship to dismiss half the force, including most of the officers and veterans, with a view of increasing its fighting power. Nor would this system of tactics be likely to prove more successful if a considerable number of the disbanded soldiers were sure to find their way into the enemy's camp. However, the rules of war do not always hold good in politics, and the reasons adduced in favour of purging the Liberal Party from the leaven of Whiggism deserve, at least, respectful consideration. It is alleged, in effect that nothing but a series of historical accidents attached the Whig aristocracy to the cause of the people in former ages, that its sympathies have inevitably gravitated towards Conservatism since the cause of the people has become identified with the progress of democracy, and that its alliance with Radicalism having become an anachronism and a delusion, ought now to be dissolved in the interest of the Liberal Party,

¹ Reprinted by permission from the *Fortnightly Review* of May, 1878.

which cannot otherwise put forth the real strength latent in its democratic ideal. Such are the main conclusions urged by Mr. Goldwin Smith in a recent article on "Whigs and Liberals," and they probably represent with tolerable accuracy opinions widely prevailing below the gangway on the opposition side in the House of Commons.

It is with sincere diffidence that I dissent from Mr. Goldwin Smith on a question so vitally affecting the future action, if not the very existence, of the Liberal Party in this country. But the difference between us, however momentous, is a difference of policy rather than of principles. With the conception of Liberal principles which underlies his whole argument I heartily concur. I hold, as strongly as he does, "that the day of privilege and hereditary government is past, and that the time is come or coming for placing political institutions on the basis of reason and equal justice." Like him, I accept the progress of democratic ideas, not merely as a political necessity to which statesmanship must in future adapt itself, but as, on the whole, an auspicious stage in the civilisation of mankind. I fully admit that no body of politicians who refuse to recognise this movement, or set themselves against it, can be trusted with the leadership of the Liberal Party, or even regarded as loyal members of it. If I do not go so far as to assert that "it is easier for a camel to go through the eye of a needle, than for a peer or a great landowner to be a democrat," I am by no means inclined to depreciate the sacrifices which such a democrat must be prepared to encounter. And yet I believe what he calls the Whig, but I should call the moderate, section of the Liberal Party, to be the soundest, the stablest, and the solidest element in that party—an element which it would be impossible to replace, and therefore suicidal to expel.

I have little inclination to criticize Mr. Goldwin Smith's masterly sketch of the historical causes to which the Whig aristocracy owed both its popular sympathies and its long tenure of power. But he scarcely does justice to the mode in which this power was exercised, or the services rendered by the Whigs to constitutional liberty. The fact that some of the great Whig houses had been enriched by grants of church lands, and their

aristocratic impatience of the autocratic statescraft practised by the Stuarts, may go far to explain their fidelity to the Protestant succession, but these circumstances will not account for the essentially Liberal spirit of Whig administration during forty-five years after the death of Anne. Neither Walpole nor the first Pitt were scions of the nobility; they were essentially great commoners, who studied the character of the people whom they governed, combining an intelligent regard for national interests, and especially for the landed and commercial interests, with very questionable methods of parliamentary management. They were not "advanced Liberals," it is true, and Walpole is said to have boasted that he was no reformer, but, as Mr. Green has well pointed out in his *Short History of the English People*, "they were true throughout to the principles on which they had risen to power, and their unbroken administration converted those principles into national habits. Before the fifty years of their rule had passed, Englishmen had forgotten that it was possible to persecute for differences of religion, or to put down the liberty of the press, or to tamper with the administration of justice, or to rule without a Parliament." Even when the party had been disorganized by the cunning of George III., no less than by internal discord, and when Liberal faith was tested, as it has never been tested before or since, by the outbreak of the French Revolution, the Whigs long stood firm, with Fox at their head, against an anti-revolutionary coalition, and Pitt himself, still a Whig at heart, was only driven into a regicidal war by the irresistible pressure of public opinion. No doubt the great majority of the Whig peers deserted Fox after the execution of Louis XVI., and when the Reign of Terror had roused the instincts of humanity itself against the excesses of Jacobinism, but many of these deserters soon rejoined the Liberal ranks, and held the pass against overwhelming odds, for a whole generation, with a constancy which modern Radicals have never yet exhibited. Mr. Goldwin Smith frankly admits that what, in its origin, had been "a party of circumstances" had become to no small extent "a party of conviction," and that such men as Fox and Grey, Althorpe and Russell, were conscientious, as well as bold, advocates of peace, retrenchment, and reform. But he

surely undervalues the importance of this concession. These Whig chiefs were really the founders and first leaders of the Liberal Party, as it has been constituted since the Reform Act of 1832. They were men of definite aims and firm purpose, steady under fire, skilled in retrieving a lost battle, inspired by a lofty patriotism superior to mere partizanship, and capable of sacrificing their own personal ambition for the sake of a great cause. The political characters of Mr. Cobden and Mr. Bright were largely influenced, if not moulded, by their example, and it is possible that men of a like spirit may hereafter arise in the younger democratic section of the Liberal Party, but none such have yet appeared, and until they do, it may be well to pause before finally deciding to break with old Whig traditions.

After all, however, the question raised by Mr. Goldwin Smith mainly turns upon more recent experience, and upon the present composition of the Liberal Party. According to him, the outburst of vexation called forth among the Liberals below the gangway by the withdrawal of Mr. Forster's amendment on the Vote of Credit marked an inevitable, though long deferred, rupture between Whigs and Liberals. He is further of opinion that, in this case, the "Liberals" were entirely in the right, and the "Whigs" entirely in the wrong. I cannot assent to either of these propositions. I maintain that on the whole Eastern question, as well as on that particular occasion, "the line of cleavage" in the Whig-Liberal combination, as Mr. Goldwin Smith calls it, has not run between Whigs and Liberals, or between the aristocratic and the democratic section. On the contrary, I believe that, upon the whole, the proposal of Mr. Forster's amendment would have been condemned, and its withdrawal approved, by the most democratic constituencies in the country, upon the grounds stated by Mr. Cowen, had popular opinion been tested by a dissolution. I believe, moreover, that popular opinion would have been so tested, if Mr. Forster's amendment had been pressed and supported by the whole strength of the Liberal Party, and that a just apprehension of the crushing defeat that would have befallen that party at the poll induced the wiser members of it, with very few exceptions, to deprecate a division. I believe that, had Lord Hartington

forced on a division, the defection below the gangway would have been more numerous than above it, and would have included several members of known democratic opinions. I believe the small body of Irreconcilables who indulged in that somewhat ill-bred and most ill-timed ebullition, to have been very far from unanimous in sentiment, some being actuated by a pure zeal for economy, some by a desire for peace at any price, and some by a hearty sympathy with Russian designs which had led them, at an earlier period, to call for a joint invasion of Turkey. But I must not shrink from adding that, in my judgment, Lord Hartington and those who have acted with him, or followed him, have shown throughout a calmer, wiser, and more impartial appreciation of the crisis in Eastern Europe, and would have kept England more truly "in the line of Liberal nations," than those who, under the nominal guidance of Mr. Gladstone, though often with ill-disguised impatience of his conscientious reservations, have allowed their feelings to govern their reason ever since they were first horrified by the Bulgarian atrocities. It is not Whiggism, but statesmanship and common sense, to keep the head cool in moments of national excitement, to mistrust the capacity of indignation meetings to regulate foreign policy, and to foresee the probability that a passionate and one-sided agitation in favour of a philanthropic crusade would provoke a counter-agitation, equally passionate and one-sided, in favour of war for "British interests." Had the words of truth and soberness obtained a fair hearing—had not the counsels of moderation and political experience been rejected with the contempt of ignorance—the Liberal Party might not have frittered away in philo-Bulgarian and anti-Turkish demonstrations, not unmixed with unpatriotic self-abasement, that moral power which should have been reserved to force, if need be, upon the Government a consistent and dignified non-intervention.

Happily, these reflections are now beginning to impress themselves even on those whom Mr. Goldwin Smith describes as "thorough-going Liberals," and the diminished strength of the Irreconcilable minority was clearly shown in the division against the motion for calling out the Reserve Forces. Even were it

otherwise, it would be a mistake to lay too much stress on any dissensions among Liberals in regard to foreign policy; still more, on the angry protests of two or three Whig noblemen against a certain line of foreign policy which they gratuitously assumed to have been adopted by the Liberal Party. These noblemen, though of thoroughbred Whig ancestry, have never been among the leaders of that party; they have not seceded from it absolutely, but only on a single question of foreign policy, and their secession is more than compensated by counter-secessions from the Conservative aristocracy. Nor must it be forgotten that, while Conservatives always attack in column, it has been the general practice of the Liberal Party in opposition to fight in loose order, and to allow its individual members an independence of action easily mistaken for mutiny. Still, it remains to be considered whether "the Whig-Liberal combination," that is, the combination between moderate Liberals and Radicals, can be much longer maintained in the field of home-politics. Mr. Goldwin Smith emphatically disavows any wish to precipitate its dissolution, "merely because its harmony is not perfect, or because it cannot do everything that some of us would desire." If that combination is sound and based on a fundamental union of principle and purpose, such as existed on the morrow of the first Reform Act, or even twenty years ago, he would allow no sectionalism, much less personal jealousies, to stand in the way of its preservation or reconstruction. This is all that any Whig could ask, and quite as much as could be required by any Liberal who is not afraid to adopt a democratic point of view. Let us, then, consider what is the natural function of the Whigs, and the moderate Liberals associated with them, in the organization of the Liberal Party; whether that function is now exhausted, and how far the present aspect of English politics justifies the belief that "a more distinct party of thorough-going Liberals," formed on the basis of No Compromise, would prove more powerful for good, as it might well prove more powerful for evil, than a Whig-Liberal combination.

However little it may be in logical harmony with democratic principles, there can be no doubt that, in the past, the natural function of the Whig element in the Liberal Party has been that

of leadership. Though public opinion has long been the real foundation of sovereignty in this country, though capacity has been recognized for ages as the supreme qualification for power, though Wolseys and Cromwells and Pitts have at rare intervals forced themselves into the highest positions in the State, yet the preference of the nation for leaders of aristocratic, or at least of gentle, birth has been constant and decisive. It was doubtless a narrow oligarchical spirit which excluded Burke from the Cabinet, while such men as Newcastle were considered necessary parts of an administration; but there was no popular outcry against it, nor has there ever been a genuine popular outcry against the preponderance of peers over commoners in almost all Cabinets, Whig or Tory. The fact is that, with all its democratic sympathies, England has never been democratic at heart, or practically embraced the democratic hostility to a governing class. As English soldiers and sailors would rather serve under a gentleman than under an officer promoted from the ranks, as English tenants like a landlord of the old stock, however needy, better than a new-comer, however free-handed, and as a titled candidate will generally poll more working-class votes than a man of the people, so in Parliament itself a party leader, and especially a Liberal party leader, of ancient lineage has always had an advantage over parvenu rivals.

Nor is this advantage wholly invidious or unreasonable. For three or four generations at least the Conservative Party has been the party of country gentlemen, bound together by a hundred links of family, neighbourhood, common interests, and common prejudices, and fully capable of maintaining its cohesion, whether it has been led by a great peer or by a political adventurer. The Liberal Party, on the other hand, is composed of very different and far less homogeneous materials, which the Whig aristocracy have often succeeded in combining, but which have never been combined for any long period by any Liberal of the democratic type, mainly because no such Liberal could acquire the confidence of all its sections. The Highland chiefs of the seventeenth century, knowing the jealous spirit of their clansmen, were not unwise in giving the command of their armies to Montrose or Dundee instead of to one of themselves,

nor have the Radicals been wrong in choosing for their general Lord Althorpe, Lord John Russell, or Lord Hartington, rather than a thorough-going Radical. But the reasons for so doing have not been merely strategical. There is really less political antagonism between the Whigs and any of the various classes into which Radicals may be divided, than between these classes themselves. For instance, no difference of religious principle can be greater than exists between the Puritan tendencies of Nonconformists and the latitudinarian tendencies of Liberal Church-reformers—not to speak of ultra-Radical Ritualists—yet both are important sections of the Liberal Party, and the Whigs are allied, by history and sentiment, with both. Again, no difference of social or commercial principle can be deeper than that which divides the middle-class shopkeeper and manufacturer from the artizan; but the Whigs have no quarrel with either, and have advocated the rights of both in their respective turns. A still more formidable obstacle to a purely Radical government of the United Kingdom is presented by the condition of Ireland. A *plébiscite* in Ireland would probably result in Home Rule and anarchy, as a *plébiscite* in England at the beginning of the last century would probably have resulted in a Jacobite restoration. Now, on strictly Radical principles no sufficient answer can be given to the demand for a *plébiscite* in Ireland, whereas the Whigs, having defended constitutional liberty against a Tory populace in the one country, are in a position to defend it against a Fenian populace in the other.

But this is not the only justification for Whig ascendancy in the Liberal Party. To speak frankly, there is a widespread and by no means unfounded belief in this country that an hereditary connection with a party is among the most powerful of all securities for political fidelity. A man who has risen to political eminence by his brains and energy alone has nothing to lose but his reputation for consistency—which may be a worthless stake—by changing his opinions, if not his allegiance, as often as he may find it convenient. It is far otherwise with a man such as Lord Hartington, who inherits a name and family traditions associated with some of the noblest memories of our constitutional history. To him the desertion of his party and principles might

be the loss of *caste*, the loss of a great position in society, the loss of all that can make public life, and of much that makes private life, desirable to an Englishman. It is idle to ignore the fact that a party leader, so born and so circumstanced, is bound over in far heavier recognisances than ordinary men to political loyalty; and it is therefore unfair to deny the existence of legitimate motives for the elevation of Lord Hartington to the post vacated by Mr. Gladstone. Mr. Goldwin Smith, indeed, fully recognises Lord Hartington's public spirit and honesty, but he adds that "every one also knows the reasons which led to the selection of him as leader, and the consciousness of those reasons is almost enough in itself to strike a chill into the heart of a party of progress." I must confess myself ignorant of the reasons to which Mr. Goldwin Smith here refers. It has always been understood that Lord Hartington's only rival was Mr. Forster, who most honourably retired in his favour—not because he was thrown over by the Whigs, but, on the contrary, because he found himself less acceptable than Lord Hartington to the Radicals, who had been offended by his policy on education. Instead of seeing in this selection a proof that Whigs and Radicals have ceased to understand each other, I see in it a fresh proof that even Radicals do not dislike a lord, especially when he commands the resources of a wealthy connection, and will put up with a good deal in an aristocratic leader, justly respected, which they will not bear from one of themselves.

Mr. Goldwin Smith might perhaps reply that, while Radicalism of the genuine democratic type is but feebly represented in the present House of Commons, it has a powerful hold on the political intelligence of the nation, and on the masses of the people. I wish I could share that opinion, holding, as I do, that notwithstanding the aberrations of impulsive Radicalism, Liberal principles are and must be democratic in their essence. Fully adopting the hearty tribute which Mr. Goldwin Smith pays to Mr. Gladstone's merits, I cannot admit that his unique popularity is due to his being regarded as the champion of democracy. It is fully explained by his genius, by his eloquence, by his matchless services, by his single-minded devotion to public duty, and by his earnest sympathy with the toiling and suffering

millions of his countrymen. Had Mr. Gladstone professed the democratic creed in its entirety, I greatly doubt whether he would ever have become so popular; and it is a significant fact that when he threw himself over-confidently upon the people, the "classes" and "interests" proved too strong for him. The very idea of democratic equality, as it is understood in France, has yet to be implanted in the English mind, while the evil spirit of privilege has always haunted Trades Unions—the only quasi-democratic organizations which have any political importance in England. So far as there is any genuine democratic sentiment in the country, it is strangely misdirected, being anti-monarchical instead of anti-aristocratic. There are one or two constituencies in which a considerable body of electors have discovered a grievance in the supposed influence of the Crown, which is trifling compared with that of the American President, and think it highly patriotic to strike off a few thousand pounds from the allowance of a prince or princess. But how many constituencies are there in which the great question of Primogeniture has ever been popularised at all, or in which it would be even possible to obtain a discussion of the French law regulating the succession to property—a law which has been adopted, with some modifications, by nearly all the leading nations of Europe? Mr. Goldwin Smith cites the Land-law question as the most critical question of the immediate future, and as one upon which the common action of Whigs and Radicals is hopeless. If it were credible that he could refer to agrarian reforms of a communistic type, he would assuredly be justified in holding this opinion, though not in assuming that Communistic Radicalism has many adherents among English peasants or artisans. But if, as I believe, he refers only to comprehensive reforms in the laws regulating the descent and transfer of landed property, I reply that such reforms have been mostly proposed and supported by Whigs or moderate Liberals, who on these subjects are far in advance of the country at large. Disestablishment is a far more burning question, and might well divide Whigs from an important section of middle-class Radicals, but it remains to be proved whether it will divide them from the masses of the people, who are not set against the Church by social jealousies,

and who see it in its most beneficent aspect. Indeed, Mr. Goldwin Smith himself has elsewhere foreshadowed a possible settlement of this question, in a democratic sense, which is by no means at variance with true Whig principles, though it is very doubtful whether Radical Nonconformists will entertain it.

As for the House of Lords, the obstructive power of which is by far the greatest anti-democratic force in this or any other country, Mr. Gladstone truly interpreted the popular feeling when he declared that he had not the courage to meddle with it. During the crisis of the first Reform Bill there was a loud and probably sincere outcry against it, and a similar though much weaker outcry was provoked by the rejection of Mr. Gladstone's Bill for the Repeal of the Paper Duties. With these exceptions, the obstinate resistance of the Upper House to popular measures, and the enormous waste of public time entailed thereby, have been tolerated with perfect good-humour, and neither the legislative nor the social privileges of the peerage appear to excite any democratic resentment worthy of attention. The introduction of Life Peerages would be a democratic amendment of the constitution in the largest and best sense; but it may safely be affirmed that not one Radical candidate in a hundred ever mentioned it in an election address, or had a question put to him in regard to it. The same popular apathy has been exhibited whenever administrative reforms of which the real aim was democratic have been proposed by "Whig-Liberal" ministries. Such were the Abolition of Purchase in the Army, and of patronage as the means of admission and promotion throughout the public service. Those only who have vainly striven to impress the design and effect of these reforms on the unwilling ears of electors, can fully appreciate the difficulty of bringing home democratic ideas to English minds. Were it otherwise, no better watchword could be devised for the Liberal Party at the present moment than the creation, or rather the revival and reconstruction, of popular self-government in English counties. This is a task which the "Whigs" are specially competent to undertake, and the chief reason why it is not undertaken is the belief that no democratic enthusiasm could be evoked in support of it, as appeared by the cold reception of

Mr. Goschen's comprehensive bill in 1871. In short, there is absolutely no evidence that a democratic spirit, "capable of giving life to a party and of sustaining a movement," has yet been developed in this country, and no presumption that it could be produced by hoisting the red flag of Democracy under any leader existing or conceivable. In a political sense, England is still a nation of shopkeepers, chiefly governed by landowners or by shopkeepers eagerly struggling for promotion into the land-owning class. To democratize English institutions without destroying the nobler features of our national character, is the aspiration of a few enlightened minds, but democratic institutions must be the outcome of democratic social conditions, and it is probable that several generations must elapse before the process of democratizing English society can be accomplished.

No one sees more clearly than Mr. Goldwin Smith how portentous is the league of reactionary forces which constitutes modern Toryism, and how essential it is that a democratic party should be armed with an impregnable moral strength of its own: "Its leaders would have to be disinterested men, willing to forego the prizes of personal ambition, content to propagate their convictions, to organize the means of giving them effect, and to bequeath victory to their successors. . . . They would find it necessary to stand more decidedly apart from the court and aristocracy, and to give to their followers the guarantee, and to themselves the moral force, of unquestionable social independence." But where and how is this constancy, and self-denial, and social independence to be secured? It was exhibited, as we have seen, by Whig leaders of former days, but is it exhibited by, or can it be expected from, any candidate for democratic leadership either below the gangway in the House of Commons, or outside the walls of Parliament? No doubt, a most culpable neglect of the political succession has produced its natural result in an extraordinary dearth of rising statesmen, and such political ability as there is among the younger members of the Liberal Party—except in the House of Lords—is to be found mainly on the extreme left of the House of Commons. But the more we analyse the composition of this Radical section, the more clearly shall we discover it to be "a heap of sand"—

an incoherent mass of individuals, each one possessed with his own mission or crotchet, many "still under the spell of hereditary rank," if not amenable to "Court influence," and few indeed capable of that disciplined, far-sighted, and statesman-like action contemplated by Mr. Goldwin Smith. Dashing skirmishers and men prepared to go on forlorn hopes may generally be found in the ranks of the Radicals, but it is the Whigs and their followers who have always brought up the reserves and consolidated the conquests achieved. Even in France, where Democracy is far better organised than in England, and where the idea of social equality has long been familiar, the extreme Left has proved itself greatly inferior to the Left Centre in the higher political virtues, and the one beneficent revolution that has been effected in French politics since the end of the war, has been effected upon principles which may properly be called Whig principles. In the English House of Commons, however, the Left Centre includes not only Whigs, but men like Mr. Goschen, Mr. Childers, Mr. Forster, and Mr. Stansfeld, who have nothing in common with the Whigs except the general moderation of their views and a sense of political responsibility. To exclude such men from the councils of the Liberal Party, and to drive them—were that possible—into becoming the left wing of the Right Centre, would be an act of downright political suicide, worthy only of Spanish revolutionists.

If any further argument were needed to strengthen this conclusion, it is suggested by Mr. Goldwin Smith's very striking description of the change that has been wrought in the spirit of English aristocracy since it lost its feudal character. Into the place of the ancient nobility, he tells us, "has crept another aristocracy, not of local administration, national defence, or public service of any kind, but of wealth, pride, and privilege, existing in the face of civilised means of government, by which its political function has been entirely superseded, while by its retention of the territorial titles formerly borne by the aristocracy of administration, it at once indicates its historical origin, and proclaims that its usefulness is past." The instincts of this new aristocracy, which is, in fact, a titled plutocracy, are essentially Tory, and so, it is to be feared, are those of the ignorant prole-

tariat on whom Tory politicians place so much reliance. Is this a time for Radicals to fall out with allies who contribute the very qualities and resources in which Radicalism is signally deficient? In presence of such a coalition, can it be wise to alienate that remnant of the ancient nobility which remains faithful to its patriotic traditions, which retains the old patrician art of guiding and following the national will at the same time, which has attached to itself nearly all the political experience and most of the political capacity now existing in the Liberal Party, which alone commands the confidence of that great non-political class by whose support the fortune of elections is turned, and which alone possesses either the social or the political consistency necessary to unite a great party.

Let me, once more, declare that I yield to no man in my desire to see the Liberal Party educated into such a perception of the highest democratic ideal as may ultimately raise it, not merely above Whig influences, but above the influence of all the narrow and sectarian prejudices which now distract and weaken it. I heartily wish that democratic principles, rightly understood and honestly embraced, may hereafter inspire in Englishmen half that political courage which the first Whigs showed, not at the hustings or in Parliament alone, but on the battlefield and on the scaffold. I wish that political intelligence among English voters, stimulated by democratic self-respect, may hereafter rise to the level of that exercised, not by Pericles or Socrates or Demosthenes, but even by ordinary citizens of ancient Athens. I wish that self-made men in our great centres of manufacture and commerce, instead of clinging to the skirts of our landed aristocracy, inherited the manly sense of independence characteristic of the old English yeomanry. I wish that more of the lesser country gentry were of the same democratic mettle as Squire Western, who vowed that his daughter should never marry a lord. I wish that a narrow and selfish Toryism, chiefly founded on anti-democratic jealousy of the working-classes, did not animate the great body of clerks in public offices and private counting-houses, as well as that still more genteel *bourgeoisie* which resides in suburban villas. I wish that Lord Beaconsfield's enfranchisement of the "residuum" had not turned out to be a master-stroke of unscrupulous

policy, and that Conservative working-men, with the strongest love of Protection and antipathy to political economy, had not become a formidable power in every constituency.

All this I wish, and even hope to see in gradual process of fulfilment, but I do not mistake wishes or hopes for present realities. It may be that the cycle of Toryism through which England now appears to be moving is destined to be presently succeeded by a new cycle of Radicalism, in which the working-classes may have the opportunity of displaying those aptitudes for political domination which have been so boldly claimed for them. In this case, while an abundance of motive-power will be supplied from below, the want of a stable regulator—of a moderating and steadying force in the political machinery—will be more sensibly felt than ever. It may be, on the contrary, that we have arrived at that which economists call the “stationary condition” in politics, and that no grand political reforms, but only administrative improvements, remain to be accomplished by the Liberal Party in the present generation. In that case, it would be the destructive energy of “thorough-going Liberals,” and not the more cautious and thoughtful statesmanship of the Whig school, that would find itself out of harmony with the spirit of the age. In neither case, and in no case that can be imagined, could the democratic section of the Liberal Party (if such a section existed) afford to dispense with the aid of the so-called Whigs, that is, of men fitted by education, character, and conviction, to harmonize democratic ideas with the permanent Conservative forces of the country. It is among them, and not among the Radicals, that constructive ability is still to be found; it is they, and not the Radicals, who thoroughly understand the difference between a faction and a party. The sinister maxim *Divide et impera* would, indeed, be fatally misapplied, if it were applied, by advocates of Democracy, to produce a dissolution of that union which constitutes the Liberal Party, which enables it, even in its lowest depression, to maintain a national character, and which is the best security for its continued influence on the political destinies of England.

LIBERAL ORGANIZATION.¹

April, 1879.

I.

SIR,—While the country is girding itself up for a decisive conflict between Imperialism and Liberal Policy, it may not be inopportune to reconsider the new method of Liberal Organization, known as the “caucus system,” from which so much is expected at the coming election. This method has been devised as an effectual bulwark against the mysterious resources of Conservative strategy. It is the natural instinct of a defeated party to credit its opponents with consummate generalship, and to reproach itself for ruinous defects of organization. When the armies of France had been crushed by those of Germany, no Frenchman would admit the least superiority of national prowess or character on the victor's side; but almost every Frenchman was profuse in his laudation of German foresight, and in his contempt for the French system of military administration under the Second Empire. The disposition of English Liberals to account for their last reverse in a like manner springs from like motives, and is warranted by like evidence. There is every reason to believe that at the general election of 1874, though it was forced on by Mr. Gladstone, the Conservatives, after five years of opposition, were far better prepared than the Liberals after five years of power. But it is not so easy to explain this advantage by merely accidental or strategical causes, especially as it seems to have been maintained under the very conditions of prosperity which proved fatal to Liberal Organization before

¹ Three Letters to the Editor of the *Manchester Examiner and Times*, reprinted by permission.

1874. We must look deeper than mere party management and electoral wire-pulling for the secret of that marvellous discipline which enables the Conservatives to advance, as well as to retreat, in unbroken order; to lay their plans for victory in the hour of defeat, and to prepare themselves against defeat in the hour of victory. It is not perfection of organization, in the mechanical sense, but rather the capacity of dispensing with organization in that sense, which is the most striking characteristic of Conservative electioneering, and which best deserves the study of thoughtful Liberals.

One security for this remarkable party fidelity is to be found in the social ascendancy of the great territorial aristocracy, which is so readily acknowledged by the plutocratic mass of modern English Conservatism. The Conservative party is in its essence, no less than in its origin, the party of the landed aristocracy. It is composed mainly of landowners, would-be landowners, tenants of landowners, relatives of landowners, and persons dependent on landowners for custom or social favours. The magnitude and importance of this last element has never been sufficiently understood by Liberals. Next to love of wealth, the desire for social advancement is by far the strongest among the selfish motives which actuate the majority of Englishmen, and probably outweighs the love of wealth itself in the breasts of most Englishwomen, in the middle classes. The most effectual mode of gratifying this ambition is to become a member of the landed aristocracy; but the readiest and cheapest mode is to be on friendly, if not visiting, terms with the landed aristocracy; and both these impulses produce a constant gravitation towards Conservatism which can hardly be overstated, and which is nowhere felt more strongly than in Lancashire. In many counties, and in many London circles, social bribery is openly practised on a very large scale; but even where this is not the case, and even in those localities where old Whig families predominate, no one can deny that it is more genteel to be a Conservative. Every young man of fortune who goes up from the university with elastic principles, every fashionable mother with girls to bring out, every parvenu struggling into good society, is under strong inducements to affect Conservative politics. Other tendencies

may, of course, operate in the same direction. Persons connected with agriculture are naturally Conservative, because Radical ideas are propagated more rapidly in towns; officers of the army, navy, and civil service are naturally Conservative, because Conservative Governments show more sympathy with the consumers than with the producers of taxes; the occupants of villas, and clerks on their promotion, are naturally Conservative, because they are specially jealous of the labouring classes, and dread the power of trades unions. But all these sentiments only predispose them to recognize the leadership of the great English territorial aristocracy—an aristocracy which justly boasts that it rests on no exclusive privileges guaranteed by law, yet which is, in fact, the most powerful caste or hierarchy in modern Europe.

A party thus constituted and thus governed is bound together by a traditional spirit of freemasonry, and animated by a traditional sense of honour, which cannot exist in equal force among the independent sections of Liberalism. Herein consists the occult influence by which Conservative members of Parliament are wafted, as if by magic, into the right lobby, to vote in public for what they have loudly denounced in private, and Conservative election-candidates are persuaded to place their own services and claims absolutely in the hands of some unseen committee. These are not triumphs of machinery, they are triumphs of social power, and cannot be imitated where that social power is wanting. Sometimes, no doubt, the self-denial of Conservative adventurers is stimulated by the hope of a baronetcy or some other substantial compensation; but, for the most part, submission is enforced in the Conservative ranks by purely social rewards and penalties. The facility with which enormous subscriptions are raised by the Conservative party for electioneering purposes, their unlimited command of volunteer agents with plenty of leisure for canvassing, and the profound secrecy in which they conduct the preliminaries of a campaign, are but further proofs of their social power. But this social power, and the discipline resulting from it, are prodigiously strengthened by an almost entire absence of definite political convictions. A political army can be marshalled far more

effectively under a flag than under a principle, because a flag is a visible thing which anyone can follow, whereas a principle is an inward guide, which may lead different men to different conclusions. When Mr. Disraeli suddenly changed his front in 1867, and called upon his party to support Household Suffrage instead of opposing it, very few were found to disobey the order, for the flag was under his direction, and the rank and file had no principles of their own to withhold them from marching after it. Since that period the doctrine of passive obedience has become still more thoroughly accepted as a maxim of Conservative policy, and it is now very difficult to conceive of any measure, recommended by a Conservative administration, against which the conscience of the party would openly revolt.

If such be the secret and nature of the admirable discipline maintained by the Conservative party, it would be manifestly vain for the Liberal party to compete with it on its own ground. Liberals do not possess the social resources of Conservatives; neither in salons nor in clubs are they likely to be a match for their rivals; and if there are still any counties overshadowed by great Whig houses, it is to be feared that Whig sentiments are not always heartily in accord with the democratic spirit of modern Liberalism. Then, it must be confessed that chivalry and public spirit are virtues rarer among Liberals than among Conservatives. The "*orgueil solidifié et granitique*" of the British aristocracy, as described by Montalembert, is a stable basis of party loyalty, and party loyalty of this kind, overpowering personal ambition, is hardly to be expected from men who have no caste to lose. On the other hand, Liberals are sadly encumbered by convictions and principles. A very large proportion of them actually think for themselves, and would assuredly desert any leader who should prove false to what they hold sacred, even though he might otherwise succeed in keeping his party in power. We may blame "crotchetsmongers" for dividing the Liberal party, but, after all, crotchetsmongers are often people honestly devoted to a sound principle, and their error lies either in a one-sided misapplication of that principle, or in their failure to perceive that no minor principle, however important, can possibly be so important as the success of the Liberal cause.

For these and similar reasons, Liberals need organization more than Conservatives, and their organization must be of a different order. They could not imitate Conservative discipline if they would, and they would not imitate it if they could. As they cannot shake off the weaknesses of democracy, they must learn to rely on the strength of democracy, and the strength of democracy can only be called out by a powerful democratic organization.

The caucus system is a vigorous attempt to create such an organization, applicable at least to all borough constituencies. Its plan and mechanism are extremely simple. Not only all who are willing to subscribe a shilling annually, but all who choose to call themselves Liberals, are *ipso facto* members of the primary Liberal Association, and entitled to vote at ward meetings for the general or Grand Committee, as we may henceforth call it, which consists at Birmingham of about six hundred members, and in some other boroughs, of five hundred, four hundred, three hundred, or two hundred. The Grand Committee has the sole control over the choice of parliamentary candidates and the general policy of the Association. There is, however, an executive committee, mostly chosen by the ward meetings, and (at Birmingham) a management sub-committee, mostly chosen by the executive committee. The essential feature of this organization is, of course, its broadly representative character, and this character being preserved, the exact number of the committees, their exact relation to each other, and similar details, are properly left to vary with the circumstances of various constituencies. It appears that about a hundred Liberal Associations, a few of which are county associations, have been formed on this general model, and are united in a so-called national federation with that of Birmingham. Other Liberal Associations, established on a like representative basis, though not formally affiliated, are in friendly correspondence with the federation, and its principles have been endorsed to a considerable extent by several acknowledged leaders of the Liberal party. It is, therefore, of great importance to consider how far the extension of this caucus system is to be desired for the sake of the Liberal cause, and what are the besetting dangers to which it is specially

exposed—not in the United States, where it is a natural growth, but in this country, where it is an exotic.

Upon one aspect of the question there can be little difference of opinion among Liberals. So far as the caucus system would substitute a representative and popular for a self-elected and exclusive Liberal Association in every borough, it must be approved by all who regard the Liberal cause as essentially the cause of the people, and the bitter hostility to it manifested by Conservatives is, at all events, a presumption in its favour. This idea, however, can hardly be claimed as a new discovery; for in most constituencies where the Liberal party is more than a name, there has long been a Liberal Association of which any one could become a member by paying a trifling subscription, and a working committee freely elected by the members of that Association. That for which the authors of the Birmingham caucus system chiefly deserve credit is the methodical division of the constituency into wards, the careful distribution of power between the ward meetings and the Six Hundred—above all, the great degree of popular interest which they have succeeded in enlisting by their bold and persistent reliance on democratic support. The merits of the system, as worked in Birmingham, were very ably expounded in a paper by Mr. H. W. Crosskey, a member of the Six Hundred, published two years ago, and they have since been frequently developed by Mr. Chamberlain. Mr. Crosskey alleges that by means of it the whole management of local affairs has been elevated and purified, that able and cultivated men have been induced to serve on the Town Council and other bodies, that large and generous views of self-government have been accepted by the mass of ratepayers, that even the poorest and most ignorant have been led to regard corporate action as an instrument for securing benefits higher than mere physical well-being; in short, that democracy in Birmingham, more than anywhere else, is practically realised as “the life of the people, as an organized whole.” These are somewhat exorbitant pretensions, but, after making all due allowance, enough remains to render it more than probable that Birmingham owes much, both politically and socially, to its Liberal organization. It was known, indeed, as a public-spirited and democratic com-

munity long before the Six Hundred existed, and the Six Hundred might have subsided into obscurity but for the exceptional energy and ability of Mr. Chamberlain and a few coadjutors. Nevertheless, there is strong evidence to show that, as a matter of fact, the municipal life of Birmingham has been quickened and ennobled by this institution ; nor is there any reason to doubt that a like organization would at least contribute to produce like results, under like conditions, in other towns of England.

When, however, we look at the caucus system from a different point of view, we are compelled to qualify our favourable impressions. In the first place, it is no slight drawback that it tends inevitably to make all local elections turn on politics—that is, on party politics. Education, sanitary administration, poor-law administration, and all other local interests, must be subordinated to party exigencies. If, for instance, the Six Hundred were not to concern itself with the School Board elections, its hold upon the constituency would become relaxed ; for incessant drilling is required to maintain the organization of democracy, and the machinery of a caucus system would soon rust unless kept in constant use. The necessary consequence is that inferior men will often be appointed to non-political offices, and superior men excluded from them, on strictly political grounds ; and though party spirit may be a certain safeguard against baser influences, it is not an atmosphere in which it is well for citizens to live and move and have their being. Let us, however, assume for argument's sake that, where the Liberal party happens to be in a permanent majority, it ought to aim at acquiring, and to exercise, at its own discretion, an almost complete monopoly of municipal privileges and powers. Still, the question remains whether the conditions upon which the caucus system depends for its efficacy can be realized in ordinary English constituencies, and whether the imperfect or spurious imitation of it may not introduce very grave evils into the conduct of parliamentary elections. This is a question which I propose, with your permission, to discuss in a second letter.

I am, sir, your obedient servant,

GEORGE C. BRODRICK.

April 19, 1879.

II.

SIR,—In my former letter on this subject I endeavoured to show the value of the caucus system as an organ for the concentration and expression of Liberal opinion in boroughs which already possess, or are capable of developing, a real municipal life. It is no less plain that such a system will probably become a failure or a sham in communities which have no corporate unity or vitality of their own. Nothing short of omnipotence can organize chaos, and nothing can be imagined more politically chaotic than some, for instance, of the metropolitan constituencies, with their heterogeneous and shifting populations, their hopeless want of common interests, and their inveterate incapacity of common action. Yet "the Liberal party" in several of these constituencies is stated to have adopted the caucus system, held ward meetings, elected a Grand Committee of two hundred, three hundred, or four hundred, as the case might be, and invited would-be candidates to lay their claims and qualifications before that body. The result has been exactly what might have been anticipated. Most of the ward meetings have been "influential" rather than "numerous," being attended by mere fractions of the Liberal party, ranging from half-a-dozen up to one or two hundred, but assuming to act for the whole. The members of the Grand Committee elected by these petty assemblies have been usually divided among themselves, and their divisions have been publicly advertised for the information of the enemy. In more than one case, where they have ultimately succeeded in agreeing upon a candidate, their decision has been rudely challenged by electors who took no part in nominating them, and opposition has been either threatened or openly declared. All this proves nothing against the caucus system in itself; it only proves that it is inapplicable to a constituency in which the very first conditions of its successful working have yet to be created.

It must be evident at a glance that everything depends on the proportion of Liberal electors who are willing to attend the ward meetings; and at Birmingham, where this is thoroughly understood, great pains are taken, by means of advertisements,

placards, handbills, and otherwise, to secure as large an attendance as possible. No superstructure can be stronger than its foundation; and an imposing Grand Committee, representing a few handfuls of Liberal electors, gathered together in schoolrooms or back parlours, would strongly resemble the elephant in the Hindoo fable, which bore the world on its shoulders, while it rested on nothing but a tortoise, which in its turn rested upon empty space. Let us suppose—and it is no hypothetical case—that in a large constituency the entire strength of the Liberal party is estimated at some twenty thousand voters, and that it is divided into twenty wards. If each ward meeting for the election of a Grand Committee were attended, on the average, by anything like one thousand, or even by five hundred voters, it might be fairly presumed that most of the active and earnest Liberals had accepted the caucus system, and were prepared to support, with tolerable unanimity, the candidate to be designated by the committee thus appointed. On the other hand, if the average attendance at these ward meetings did not exceed fifty, is it reasonable to expect that nineteen thousand electors outside the whole organization, and perhaps heartily distrustful of its managers, should hold themselves bound to obey the mandate, not of the one thousand, but of a haphazard majority in the Grand Committee elected by a haphazard majority of the one thousand? It is not immaterial to remark that many of the wealthiest and most influential electors in London and other great towns actually reside at a distance from their places of business and can scarcely be induced to attend evening meetings of any kind. Can it be expected that such men will passively accept the vote of so fractional a representation of the whole Liberal party, if their judgment condemns it and their sentiments are opposed to it?

Even when all the primary conditions of success have been fulfilled, when the ward meetings have been fully attended and have chosen their representatives on the Grand Committee by overwhelming majorities, and when the Grand Committee includes within itself in due proportion all the various sections of Liberal opinion, the efficiency of the caucus system has yet to undergo a crucial test in the conduct of parliamentary elections. One of the main objects proposed by its advocates is to defeat the

machinations of political jobbery, and to secure the nomination of the strongest candidates. This is the highest function of the Six Hundred at Birmingham, and the mode in which it may be exercised by similar bodies has been forcibly illustrated by recent proceedings at Bradford, Southwark, and elsewhere. Now, before we consider how far such proceedings are likely to rally the Liberal party round the strongest possible candidate, it may be convenient to remind ourselves of the ordinary practice in boroughs where the Liberal party has long been under able leadership; for the old practice is not always wrong, nor does representative organization date from the birth of the Birmingham Six Hundred. The most approved practice, then, has been for the Liberal Association to entrust the invitation of candidates, the reception of overtures from candidates offering themselves, the consideration of their relative claims, the preliminary negotiations with them by way of private conference or otherwise, and the ultimate recommendation of one or more, to a small committee possessing its full confidence, always reserving the final decision in its own hands, and frequently requesting the candidate recommended to make a public statement of his views. Where the association really embraces all the elements of Liberal strength in the borough, not excluding the working-class element, and where the committee is formed with equal fairness of its most influential members, this system works very well, and differs from the caucus system only in being more elastic and less strictly carried out. It fails where the committee, instead of being the representative of the association, is a self-elected clique of local busybodies with their own ends to serve, and where the association is nothing but a loose appendage of this nominal committee, caring little or nothing for politics except when there is a prospect of dividing the spoils at a parliamentary election.

Unhappily this kind of organization is much too common, and has gone far to produce that dearth of ability and statesmanlike qualities in the present and the last House of Commons which is often hastily attributed to household suffrage. It is not the Liberal democracy, but the self-elected and self-seeking Liberal oligarchy, which delights to honour the successful

money-maker, perhaps equally destitute of public spirit and political capacity, having no other ideal of merit than success, and no other ideal of success than self-aggrandizement. Many a seat has been lost by the short-sighted preference of such a candidate to a man capable of winning confidence by his character and rousing the popular enthusiasm by his eloquence; and the whole blame of these disastrous blunders must rest, not with the mass of the Liberal party, which is seldom permitted to exercise a choice, but with the small knots of professional wire-pullers which have dominated and controlled the Liberal party in numerous constituencies, both large and small. So far as it may be successful in counteracting this kind of political manipulation, substituting voluntary for paid agency, and giving the great body of Liberal electors an effective voice in the selection of their own candidates, the caucus system deserves hearty encouragement. Only it must be worked, like any other system, in accordance with the lessons of experience and the dictates of common sense. One of these dictates is that men of tried ability and public reputation should not be treated on exactly the same footing as political novices seeking an opportunity of making their names known. Another is that matters which cannot be properly or freely scrutinised in public should be reserved for private discussion; such as the comparative qualifications of would-be or possible candidates, their antecedents, their pecuniary means, their characters and intellectual gifts, their family or local connections, their powers of persuasion, their physical endurance, and so forth—all very material questions for the consideration of a committee, but palpably unfit to be debated before a public meeting with reporters present. The rules of the Birmingham Association are not in these respects absolutely inconsistent with experience and common sense; for, while they vest "the choice of parliamentary candidates" in the Six Hundred, they leave the Six Hundred free to charge the executive or management committee with the all-important duty of recommendation; they do not require the first advances to be made by candidates, and they do not positively enjoin the adjudication of relative claims in public session. Nevertheless, they unquestionably favour the selection of par-

liamentary candidates by a process of open competitive examination wholly at variance with the old practice, as well as with reason. This process is essentially the same, whether it takes the milder form of public wrangling over the names of proposed candidates, or the more aggravated form of competitive speaking by the candidates themselves. As both forms have actually been practised by Liberal Associations organized on the Birmingham type, it becomes necessary to consider further this perilous abuse of the caucus system.

The policy of selecting candidates by public competition before a committee of several hundred is founded on two assumptions. The one is that the best candidates will be willing to offer themselves, and to undergo this humiliating ordeal. The other is that the candidate who proves strongest in the contest for the nomination will also prove strongest in the contest for the election. Both these assumptions are demonstrably unsound. Mr. Forster, by the admission of all the best Liberal candidate for Bradford, positively declined to accept beforehand the result of any such competition; and it may safely be predicted that most sitting members with any self-respect will follow the example of Mr. Forster. Mr. Ayrton and other Liberals of high standing are known to have refused the honour of being pitted against Brown, Jones, and Robinson, in a public scramble for the caucus-vote, and the most eminent candidates will assuredly be the least disposed to enter the lists, *unless where they have a private intimation that everything has been pre-arranged in their favour*; in other words, unless where the dice have been loaded against their competitors. But assuming that a public competition will attract the best candidates—some perhaps ex-cabinet ministers—from all quarters, what ground have we to assume that in this struggle for political existence the fittest will prevail? It may be a hard saying for advanced Radicals, but it is a true saying, that in nine constituencies out of ten the Liberal candidate most likely to divide the party least and to win the election is not what the French would call an extreme Left candidate, but a Left Centre candidate, not too prodigal of pledges, yet with the genuine popular fibre, and the power of advocating moderate views in forcible language. Such a candidate would

usually be preferred by a good representative committee of the party seated round a table, and patiently weighing the chances of success; but would he be preferred in a public competitive examination of claims before a meeting of several hundred? Probably not, and that for several reasons. The man of extreme opinions and pushing disposition is more likely to have instituted a vigorous preliminary canvass, his supporters are more likely to press his candidature, regardless of consequences, and, if called upon to speak, he will be troubled with no delicacy of conscience in the effort to win popular favour. As I have said elsewhere, "Themistocles, whom each of his competitors placed second to himself, might easily have been defeated in such a competition by some fifth-rate commander, especially if the latter had taken care to canvass and whip up as many supporters as possible." But this is not all. The nominee of a compact section, though it may constitute but a small minority of the Liberal party, has a very good chance of prevailing in such a competition against four or five rivals, any one of whom might nevertheless prove a stronger candidate at the poll. For instance, a nominee of the Agricultural Labourers' Union, in a constituency where a third of the Liberals were unionists, might obtain more votes than any one of several excellent candidates, and yet might find himself in a pitiful minority at the poll, having alienated from the Liberal cause most of the professional and trading classes, the farmers, and even the non-unionist labourers. The same result would naturally occur if a prominent advocate of the Permissive Bill were adopted, as he well might be, in a constituency where a third of the Liberal party were members of the United Kingdom Alliance. It would certainly have occurred if Mr. Ernest Jones, having been preferred to Mr. Milner Gibson, on a test ballot at Manchester in January, 1869, had gone to the poll against a Conservative antagonist. Nor will the mischief of such a competition be averted even if the best possible candidate be ultimately selected. He will enter the field more or less weakened and discredited by the notorious fact that many leading members of the party have publicly declared their preference for others, and perhaps as publicly stated their objections to him. The indifferent and wavering electors,

who practically determine the issue of most elections, oscillating from side to side like the loose ballast on board a ship, will be less disposed to gravitate towards him than if he had been unanimously recommended and unanimously adopted. Unless the caucus be unusually powerful, an independent candidate will have much less scruple in dividing the party once more when it has already paraded its own divisions. In short, there is every reason to fear that, whereas it is the avowed purpose of the caucus system to secure the predominance of general over sectional party interests, this popular misapplication of it would produce an exactly contrary effect, and entail the loss of Liberal seats which might have been saved by adhering to simple rules of experience and common sense.

It would be an ungracious task for a Liberal writer to point this moral by too particular a reference to recent cases in which the caucus system has been thus misapplied. One case, however, demands some notice, because it was specially cited as illustrating the virtues of that system in a letter published in the *Times* of February 4th, 1879, by Mr. W. H. Stone, late M.P. for Portsmouth, and now adopted as one of the Liberal candidates for Greenwich. Mr. Stone describes his own political introduction as follows:—"That the plan of selection by duly-appointed delegates can be satisfactorily worked out, my experience of the borough of Greenwich appears to prove. The first overture came, as it ought to do, from the side of the constituency. The next step was an interview with a small number of gentlemen, representing the Executive of the council. At this interview questions were asked and answered with perfect frankness on both sides, and without the slightest pressure. The line taken was simply, 'Such and such are my opinions and intentions; do they correspond with the requirements of your constituency? If so, we can proceed; if not, the negotiation is at an end.' The next step was an invitation to attend a private meeting of the whole body of the council. The merits of only one candidate were under consideration, and the proceedings were strictly private. They only differed from those at an ordinary first meeting in the absence of reporters, and in the fact that the ordinary meeting might be packed by the

friends of the candidate, and, at any rate, would consist of persons representing only their own votes and opinions. The ordinary questions were asked and answered, and no pressure whatever was put upon the candidate in favour of any particular views."

Now this is a very fair description of the rational practice long established among well-constituted Liberal associations, and no doubt it is a perfectly accurate description of Mr. Stone's appearance on the Greenwich scenes. But Mr. Stone's appearance was, in fact, the second act in the drama, and he does not seem to have been even cognisant of the first. This consisted in the miscellaneous proposal of no less than twelve names before a public meeting of the Greenwich hundreds, and in the provisional selection of six gentlemen to be tested by a further competitive examination, every one of whom either declined or was set aside. Having learned wisdom by this ludicrous *fiasco*, the leaders of the party had the sense to abandon the competitive method, communicated privately with Mr. Stone, as a man with a public character to lose, took means to secure his nomination, and so placed themselves in a favourable position to win the election. It would be impossible to find a better example of the way to use, and the way to abuse, the caucus system, and it is to be hoped that it will not be lost upon other constituencies.

Our conclusion, then, must be that, while the caucus system, properly worked, may be of great service in fostering and guiding the democratic spirit of Liberalism in constituencies like Birmingham, and even in giving a new political life to smaller and more sluggish boroughs, it depends entirely for its *raison d'être* upon a full attendance at the original ward meetings, and for its beneficial action upon a degree of political virtue in its managers which American experience forbids us to expect. It is, in fact, peculiarly liable to defeat itself by an exaggeration of its own principle, substituting nomination by a select body of delegates for nomination by an "influence" or an "interest," and encouraging public contests for the mastery in the Liberal camp by way of preparation for a general action with the enemy; to which it may be added that, if it be carried beyond the proper sphere of electioneering, its tendency is to set up an intermediate

power, not merely between a Liberal member and his Liberal constituents, but also between Liberal constituencies and Parliament itself. I propose to reserve this aspect of the caucus system for consideration in a third letter.

I am, sir, your obedient servant,

GEORGE C. BRODRICK.

April 19, 1879.

III.

SIR,—I have already indicated what appear to be the besetting weaknesses and dangers of the caucus system, regarded simply as an agency for the control of municipal and parliamentary elections. But it must not be imagined that, if the views of its promoters should prevail, the Grand Committee would be a mere electoral college, or that its action in respect of imperial politics would cease with the election. Being practically in permanent session, though annually elected, and including within itself all the most active and ambitious spirits of the party, it would inevitably treat a Liberal member as its own nominee, and resent as high treason any appeal from its authority to the constituency, or even to the party at large. "Individualism," or the assertion of personal independence either by electors or by candidates, has been loudly and naturally denounced by thoroughgoing advocates of the caucus system, inasmuch as its very existence, for any distinctive or heroic purpose, depends on the surrender or suppression of personal independence. Hitherto, it has been an accepted principle that a member, once elected, represents the whole constituency, and may even communicate freely on public questions with electors of opposite politics. Henceforth, if the caucus system be generally adopted and carried far enough, it is to be feared that Liberal members will be expected to receive instructions from the dominant majority of their own party, or rather from the delegates of that majority. This may be a logical and legitimate consequence of ultra-democratic theories, but it differs too widely from the notions of our Liberal forefathers, and resembles too closely those of French Jacobins and Positivists, to fascinate English

minds as if it were the highest consummation of political liberty. Still less will English minds be disposed, upon full reflection, to welcome the contemplated development of the National Liberal Federation, or Federal Council of Liberal Associations formed upon the caucus system, which was founded at a meeting held at Birmingham on May 31st, 1877, and which is designed to crown the edifice.

If the action of a Federal Council elected by caucus associations were limited to promoting the extension of the caucus system, it might, of course, be useful in proportion as that system may be useful in educating and concentrating Liberal opinion in single constituencies. It is even possible to conceive, though it would be hardly possible to work out, a federal organization so influential that it might assign a due proportion of Liberal seats to each contingent of the party, securing, for instance, a better representation of the working classes among Liberal members of Parliament. Whether the Federal Council would or could be trusted with such a responsibility is a very doubtful question, but it is certain that so humble a function would never satisfy the aspiration to which it owes its origin. The ulterior objects of the Federation were very forcibly defined by Mr. Chamberlain at its inaugural meeting. "We hope the time is not far distant when we may see the meeting of what will really be a Liberal Parliament, outside the imperial legislature, but, unlike it, elected by universal suffrage, and with some regard to a fair distribution of political power." Nearly the same objects were proposed by the National Reform Union, established in 1864, with Manchester for its centre, and Birmingham itself was the real centre of many similar political unions, one calling itself "National," during the stormy period of the first Reform Bill. The most timid constitutionalist may reassure himself with the reflection that no revolutionary triumphs were achieved by these associations, or by any others that have ever been attempted in this country. Great reforms have, indeed, been powerfully aided by the Anti-corn-law League and other bodies organized on special emergencies for the attainment of special ends; but the Anti-corn-law League itself broke down as soon as it overstepped its own province, and the nation is habi-

tually intolerant of interference between itself and the representative legislature. The very choice of a permanent headquarters for the National Liberal Federation will involve more difficulty than would appear at first sight. If its central office is to be fixed in the metropolis, it must assuredly suspend its activity during the whole session of Parliament, for even French republicanism, in its present maturity, would never tolerate a democratic club or "Liberal Parliament" keeping a jealous watch over the Liberal party in the legislature. If it is to issue its decrees from some provincial centre, like Birmingham, it will assuredly fail to command the allegiance of Liberals in the metropolis, which contains nearly one-fifth of the whole English population, a much larger porportion of the national intellect, and an immense preponderance of the political influence now wielded by the press. But, although it is highly improbable that government by Queen, Lords, and Commons will give place to government by a council of State nominated by the National Liberal Federation, no Liberal can afford to ignore the mischief that might be done by an ill-advised movement towards an end so absolutely unconditional.

Let us seriously ask ourselves by what right any Federal Council, "outside the imperial legislature," can assume to dictate Liberal policy, and to direct the parliamentary chiefs of the Liberal party. To justify such pretensions, it should at least be shown that a majority of the Federal Council is entitled to act as if it represented a majority of the Liberal party throughout England. The slightest consideration will expose the absurdity of this hypothesis. We have seen how easily a small minority of the Liberal party in any borough may simulate the character of a majority, where nine-tenths of the electors have kept aloof from the ward meetings, and the Grand Committee is divided within itself. If the Federal Council is elected by the Grand Committees, this risk will obviously be multiplied to an indefinite extent, and it is quite possible that a policy tacitly disapproved by the great mass of the Liberal party in England might be pressed in the name of that party on its parliamentary chiefs. No doubt, if the dissentient majority were thoroughly in earnest, and determined to make their voices heard, the federal organiza-

tion would be exposed to public ridicule, and this is exactly what is likely to happen as soon as a strain is put upon the machinery. In the meantime, it may be quite possible, by judicious wire-pulling, to misrepresent very seriously the prevailing opinion of the Liberal party on a particular question. The success of the National Liberal Federation in getting up simultaneous indignation meetings by telegraph on the Eastern question may have been a masterpiece of tactics, and nothing but a counter-organization, manipulated with equal energy, could have neutralized their effect; but it by no means follows that a majority of English Liberals shared the one-sided views expressed at these meetings. It is probable that an equal number of equally enthusiastic anti-State Church meetings could be got up by the same process, and possible that, if the inner circle of the federation were supporters of the Permissive Bill, or even of a much less reasonable measure, the word of command might be given to force the hand of Lord Hartington, and make that measure a cardinal article of Opposition policy. Mr. Chamberlain and his colleagues may be too wise to attempt anything of this kind, knowing as they must how irresistible would be the reaction against political centralization pushed to extremes; but it would be perfectly consistent with their principles, since it might be demanded by "the will of the majority," *as ascertained by the caucus system.*

There is another fallacy which underlies the whole argument in favour of erecting the caucus federation into a national institution. It is the fallacy of supposing that, if the will of the majority could really be thus ascertained, it ought of necessity to govern the parliamentary action of the Liberal party. If there were no Conservative party, and no waverers or neutrals, there would be something to be said for this doctrine; but as the Conservatives, together with the non-political class, happen to constitute a vast majority of the English people, it rests upon no foundation whatever. A parliamentary leader of the Liberal party, even if he be in power, knows that, whatever he may desire, the ultimate course of legislation will be the resultant of a Liberal impulse checked and crossed, not only by the obstructive forces of Conservatism, but also by the *vis inertie* of

political apathy. It is doubtless very important for him to measure aright the strength of the Liberal impulse, and here the caucus system may sometimes furnish valuable evidence, but, having measured it, he may often find it expedient to postpone even measures which he, in common with most Liberals, heartily approves. This is essentially the office of a political general, and assuredly no statesman of capacity and self-respect will accept the position of general in the Liberal army if he is to receive orders from an extra-parliamentary council of State, whether it be self-constituted or the organ of Grand Committees. Just as the individual candidate, once selected, is the best centre of Liberal organization in any single constituency, so, but in a far deeper sense, the parliamentary leader of the Liberal party is the best centre of Liberal organization, as he is often the best interpreter of Liberal sentiment in the country at large. What it is most important for him to learn from others is not what he might learn from a Federal Council, echoing "the will of the majority," but, on the contrary, what he could only learn by conferring with the parliamentary representatives of those various political groups which together make up the Liberal party. If the caucus system fulfils its promise, each of these groups will have its fair share of Liberal members in Parliament, and no other channel of communication with the constituencies or Grand Committees will be needed. If the caucus system returns only members of one political type, still less will be gained by reference to a Federal Council embodying the same type. There is, indeed, an almost ludicrous inconsistency between first elaborating a local machinery to secure the parliamentary ascendancy of the Liberal party, and then elaborating a federal machinery to usurp or control the functions of Liberal members. Nay, more, the very idea of such a control betrays a spirit of mistrust which bodes ill for the stability of Liberal organization on democratic principles in a society only too aristocratic in its structure and only too Conservative in its instincts. The progress of this organization, which every true Liberal must desire to promote, may require future leaders of the party to rely less on the arts of parliamentary "whips," and to admit their followers, in the country as well as in Parlia-

ment, more fully into their confidence. But confidence must surely be reciprocal, and if the new Liberal Organization should ever require the leader to follow, and the followers to lead, there will very soon be no Liberal Party to organize.

I am, Sir, your obedient servant,

GEORGE C. BRODRICK.

London, April 22.

HOUSEHOLD SUFFRAGE AND PARLIAMENTARY GOVERNMENT.¹

February 28, 1878.

THE recent declaration of Lord Hartington gives a new significance to Mr. Trevelyan's annual motion for the assimilation of the borough and county franchise, which stands on the Notice Paper of the House of Commons for March 4. Henceforth the Opposition is practically committed, as a party, to household suffrage in counties; and Mr. Trevelyan has boldly recognized, by the form of his motion, the necessity of supplementing any such measure by a further redistribution of seats. Whether this redistribution can be confined to an adjustment of the balance of representation as between boroughs and counties, or must needs include a revision of borough representation with a view to redress its present anomalies, is a question which a "moribund" Parliament may not find it easy to decide. In the meantime, the proposed extension of Household Suffrage to counties will have to be discussed once more on its own merits; and while its opponents will assuredly assert, its supporters will hardly deny, that it must be regarded for good or for evil, as a fresh concession to democracy.

The most definite, if not the most cogent, of all the arguments yet advanced against a democratic suffrage is the argument founded on its supposed effect in weakening both the independence of legislation and the vigour of administration. A strong Government has been described as another name for a weak people, and, conversely, any large increase of the electoral body has been deprecated as inevitably involving a

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corresponding decline in the wisdom of Parliament and even in the public virtue of statesmen. Such was the burden of Lord Grey's warnings against the prospective Reform Bill of 1858, of Mr. Lowe's celebrated speeches against the Reform Bill of 1866, and of Mr. Goschen's recent protests against Mr. Trevelyan's resolution, which, it seems, are to cost him his seat for the City of London. It is a good, but it is not a conclusive, answer to such reasoning that it strikes at the root of popular representation, and, in fact, strongly resembles a plea for so packing the political jury that a satisfactory verdict may be returned. If it could really be shown, either by the experience of our own country or by that of foreign nations, that each downward extension of the franchise has been followed by a degradation of political morality, it would be practically vain to advocate, on grounds of abstract justice, a further step in the same direction. On the other hand, if this cannot be shown, and if the evidence alleged in support of it is capable of a very different explanation, then we are at least free to entertain considerations of justice, and may perhaps find them to be perfectly consistent with the dictates of expediency.

According to Mr. Goschen, it is the special vice of a democratic suffrage that it gives free scope to socialistic or ultra-philanthropic tendencies, and makes it more and more difficult to resist them. If this were true, we should naturally expect the result of household suffrage in the boroughs to have made itself felt in socialistic or ultra-philanthropic legislation. Yet very few examples of such legislation, due to democratic pressure, have been cited by the champions of a restricted franchise; and though Mr. Goschen dwelt strongly on the growing predominance of philanthropy over political economy in our own legislature since the Reform Act of 1867, he was at a loss to specify a single case in which the sound principles of political economy had actually been sacrificed to philanthropic sentiment. No doubt an almost socialistic tone may be detected in the agitation which preceded the Irish Land Act or the repeal of the Combination Laws, not to speak of the Artisans' and Labourers' Dwellings Act, and other recent measures for the benefit of the working classes: nor is it impossible that some of the Parlia-

mentary speeches made in their support may have been tainted with the same heresy. This is probably what has aroused the apprehensions of Mr. Goschen, but it is not sufficient to justify them ; for if the demands of democratic philanthropists, however persistently urged, have left no mark in the statute-book, the inference must be that Parliament was strong enough and wise enough to withstand them. It was far otherwise in the old days of oligarchical government, and it would be well indeed for the credit of the unreformed Parliament if the selfish and short-sighted doctrines which then prevailed were only to be traced in the reports of debates and not in the Statutes at large.

If we look to foreign nations, we find Socialism most rampant in Prussia, where the suffrage is jealously guarded by a complicated system of indirect or double election ; yet even in Prussia Socialism has little power in the legislature. No socialistic contempt for the rights of property can be traced in the permanent legislation of other countries, where universal suffrage has been established ; on the contrary, it is a singular fact that customs duties and other indirect taxes which press heavily on the poor are there a favourite source of revenue, while the rich do not appear to bear a larger proportion of the national burdens than in England. Nevertheless, it must be allowed that a democratic impatience of economical justice has sometimes been exhibited in our own colonies, and the adoption of the Bland Silver Bill in the United States was certainly an illustration of the same disposition, though its effect has since been happily neutralized. But what shall we say of the system of taxation which, for want of democratic pressure, was the curse of France before the Revolution, and what of the Corn Laws and other commercial monopolies which prevailed in this country until they were swept away by democratic pressure ? Mr. Goschen surmises that Household Suffrage in the counties would lead to a demand for indiscriminate outdoor relief ; but this surmise, though plausible, is not confirmed by any facts within our knowledge. The Agricultural Labourers' Union has now been established for some five or six years, and every grievance, real or imaginary, of that class has been freely discussed at its meetings ; yet the demand for indiscriminate outdoor relief

has never formed part of its programme. It is still more remarkable that, notwithstanding the introduction of compulsory education, the demand for free education has never become a popular cry, though it has been put forward with great ability by a certain school of educationists.

Upon the whole, it is by no means self-evident that fidelity to economical principles would be relaxed by an extension of the franchise to householders in counties; and if we admit the special temptations of democratic suffrage, we must likewise remember the counter-temptations against which it fortifies the statesman. Deference to democratic prejudice is not the only weakness of which he may be guilty; there is also such a thing as deference to aristocratic prejudice or to court influence. Had Pitt fulfilled the promise of his earlier career and passed a large measure of Parliamentary reform, it may be doubted whether the long contest with Napoleon could have been maintained with such marvellous fortitude; but might we not have been saved the fatal error of declaring war against the French Republic, which directly contributed to call out the military genius of Napoleon and to found the First Empire? On the other hand, if aristocratic instincts had prevailed over democratic instincts during the late American war, might we not have been plunged into a still more fatal alliance with the Confederate Slave-Power against the United States? Let us recall the great remedial measures which followed the Reform Act of 1832, including the repeal of the Corn Laws, and ask ourselves how many of them it would have been possible to carry had the basis of representation continued to be oligarchical, and had not class-interests been overborne by the popular will. Let us sum up the beneficial legislation which followed the Reform Act of 1867, including the Education Act, and consider not merely whether it could have been accomplished without the impulse of Household Suffrage in the boroughs, but also whether some parts of it would have been loyally accepted by the nation at large from a Parliament in which the working classes were unrepresented. Nor let us forget that, after all, the supreme end of government is the greatest happiness, not of a respectable minority, but of the greatest number, and that if the people are sometimes incom-

petent to judge wisely of their own happiness by reason of ignorance, they have at least, as Mr. Bright says, "no interest in wrong" and the greatest possible interest in being well governed.

It is worthy of consideration whether that kind of pressure which is really most perilous to political virtue is not far more likely to proceed from well-organized bodies in the middle or upper ranks of society than from the chaotic masses of the people. The country gentlemen, the farmers, the shopkeepers, the shipowners, the publicans, the lawyers, the clergy of the Established Church, the Nonconformist ministers, the officers and retired officers of the army, the great body of civil service *employés*, well know how to combine for the protection of their class interests, and to exert a powerful influence on elections. No such capacity of political organization has been hitherto displayed by the artizans, still less by the agricultural labourers, and it is almost ludicrous to conceive two or three millions of English electors, living by manual labour, scattered over the country, bound together by no social ties, divided by conflicting prejudices and mutual jealousies, wrapped up in their own everyday cares, and much too matter-of-fact to cherish the socialistic theories prevalent in France and Germany, yet conspiring together for their common aggrandizement at the expense of the Exchequer or of the wealthier classes. The notion that working men are all Radicals by nature has long since been rudely dispelled, and no sooner is a meeting of working men convened in Hyde Park or elsewhere in support of some political object, than an equally numerous mob is assembled to pass resolutions with equal enthusiasm in favour of an opposite policy. We speak of the working class for the sake of convenience, but in reality the working class is not a class at all in any political sense, but an unstratified and incoherent aggregate of individuals who are daily becoming more valuable citizens with the progress of education, but are perfectly incapable of being rallied under one banner for any such crusade against political economy as Mr. Goschen contemplates.

There remains the further and distinct question, whether the standard of political courage, and with it the originality of statesmanship, has or has not been lowered in these latter days.

Mr. Goschen asserts that it has, and though he may be wrong in connecting this fact too closely with the progress of democracy, the fact itself will be disputed by few who have studied the course of politics for the last twenty years. Not many generations have elapsed since Englishmen, and Englishwomen too, were content to encounter torture or the stake rather than assent to some abstruse formula about the mysteries of religion which modern casuistry would treat as meaning anything or nothing. Even in the present generation patriots have been found, in Italy and elsewhere, to endure lifelong imprisonment for the sake of a national cause. Yet it is now considered an almost heroic feat of political constancy for an English politician to refuse a seat in Parliament, or to give up office, simply because pledges are required of him which he cannot honestly reconcile with his conscience. The most notable proofs of political indifference and pliability have been given by the Conservative Party in the sudden adoption of Household Suffrage in boroughs and in more recent changes of attitude coinciding with party interest; but individual members of the Liberal Party have shown themselves equally incapable of resisting pressure on Church Policy, on Home Rule, on the Permissive Bill—in short, on any test resolutely applied by a compact and influential section of their constituencies. Nor can it be said that any greater independence of judgment or tenacity of principles characterizes the House of Lords, whose members cannot have the fear of constituencies before their eyes. If the increase of democratic pressure were the origin of political cowardice and the result of an extended suffrage, the hereditary branch of the legislature ought, in this respect, to compare most favourably with the elective. But what is the fact? One of the most important functions, if it be not the *raison d'être*, of the Upper House is to check hasty and passionate legislation. Now, it would be easy to enumerate scores of instances within living memory in which the House of Lords has obstructed for years well-considered measures ultimately destined to pass, and now admitted by all to have been sound; but how many instances can be enumerated in which the House of Lords has defeated an unsound policy supported by popular enthusiasm? There is certainly less of speaking to

reporters in the House of Lords and a somewhat greater variety of style in debating, but how many speeches are there delivered in the course of a session having in them any ring of that genuine conviction which betokens and inspires political courage?

Several causes may be suggested to account for this apparent want of backbone in modern politicians, and these causes would not cease to operate even if the wave of democracy could be stayed by the rejection of Household Suffrage in counties. In the first place, we must recognize in politics the influence of that prevailing scepticism which has shaken religious belief and penetrated into every department of thought. For a man to have the courage of his convictions, he must needs have deep and fixed convictions, such as sustained the martyrs of old, and it is vain to expect the courage of St. Paul or of St. Francis, of Luther or of Loyola, from men who only half believe what they profess. Had the Conservatives of 1867 been as sincere as Mr. Lowe in their horror of a democratic suffrage, it would have evinced an almost incredible profligacy on their part to have voted for it; but it is far more reasonable, as well as far more charitable, to presume that very few of them had any earnest belief on the subject. We must recognize, in the next place, the prevalence of an idea which is peculiar to modern times and has done much to enervate the force of individual will—the idea of a political necessity. The ancients held that man was often the sport of a cruel destiny, but this destiny was supposed to be superhuman, whereas it has been reserved for modern political philosophers to bow down superstitiously before a destiny of their own invention, and of which they individually form a part. The time is said to have come for a measure to be carried, not because it has become more beneficial or less dangerous, but only because politicians choose to imagine that it is demanded by some political law of nature beyond their own control, which they call the force of circumstances. A man who firmly believes that it would be a ruinous mistake to sever the Church from the State nevertheless acquiesces in it as a political necessity, just as if his own faint-heartedness and subservience to popular clamour did not help to constitute that very “necessity.” A man who is heartily opposed to Home Rule, or Female Suffrage,

or the Permissive Bill, and loses no opportunity of deriding it in private, nevertheless goes into the same lobby with its honest advocates because, forsooth, it is a progressive idea, and must be adopted sooner or later. If people had but the nerve to consider quietly what the consequences would be of defying a political necessity of this kind, and acting on the far sounder doctrine that "man is man and master of his fate" in politics, they would often discover that they had been terrified by a metaphysical bugbear—an idol created by public opinion in its own image. It might sometimes turn out that what had been taken for the irresistible stream of human progress was no more than a movement got up by a small band of doctrinaires, and capable of being turned back again by a moderate display of energy and self-sacrifice on the part of its opponents. But this steadiness of nerve is rare now-a-days, for the delusion that society is governed by external laws is so widespread and subtle as to have secretly deadened the power of internal resistance in too many of those who might otherwise do much to guide the spirit of their age.

There is, however, another and a less humiliating reason for the apparent decline of political courage and independence in statesmen. If, as the poet tells us, the individual withers and the world is more and more in this restless age, it is partly because the world has become far more intelligent and competent to manage its own affairs. It is possible that other causes may have contributed to produce that want of originality which is not less conspicuous in art and literature than it is in politics. But it is quite certain that, apart from all other causes, individual ascendancy must needs be dwarfed by a general rise in the intellectual stature of the community, and that no political leader of the present day can stand, like Saul, a head and shoulders above the people. The impression produced by Swift's pamphlet on the "Conduct of the Allies," or Burke's "Reflections on the French Revolution," appears to us miraculous until we realize the levelling effect of the newspaper press, and remember that for one Englishman who in the last century took an active interest in politics there are now at least a hundred keenly following the course of events at home and abroad. No minister

of our times would have a right to assume, or would dare to assume, the haughty bearing of Walpole or Pitt, since no minister could possibly claim such a superiority of political knowledge and insight over the House of Commons and the public. Perhaps it may be suggested that since the great offices of State are no longer confined to a patrician caste, but often filled by men drawn from the middle classes, the predictions of Burke have been more or less verified, and the old chivalrous sense of political self-respect has become tempered by an utilitarian spirit. There may be a certain degree of truth in this surmise, but it is far more important to observe that a larger and juster conception of political responsibility, as well as the fierce light of publicity that beats upon statesmanship in this generation, makes it impossible to govern the country without consulting the views and feelings of the people. Lord Derby may have gone too far in saying or implying that he was ready to carry out the behest of his employers in foreign policy, but in home policy a constitutional minister is bound to study public opinion, as Pericles studied the humour of the Athenian democracy, and if he is opposed to it on a serious question, his duty is, not to stand out against it, but to resign. Even Prince Bismarck learnt this lesson thirteen years ago, since he saw that he could only achieve the unity of Germany by conciliating the German democracy, and his reward was that, in the conduct of foreign affairs, he received a more unreserved confidence from a national assembly elected by universal suffrage than Prince Gortchakoff has ever commanded in the Russian Empire.

Let us, then, look forward hopefully to a change which must come sooner or later—not because it is fore-ordained by any political fate, but rather because the justice and expediency of it will before long be discerned by all. Let us cast aside the counsels of despair, which betray a want, if not of political courage, yet of that political faith which is closely akin to it. Why should we doubt that future generations of English statesmen will know how to weather the perils of democracy as skilfully as their fathers weathered the perils of personal government and oligarchy, or that a new order of political

virtues will be developed under new social conditions? When the imposing fabric of mediæval Christianity was undermined at the Reformation, men doubtless mourned over the impending decay of that saintly and self-sacrificing devotion which had proved capable of overcoming the world. But Protestantism soon produced heroes and martyrs of its own, and, what is more, the sense of individuality which it rekindled in human souls fostered a new intellectual courage, to which Catholicism had never attained. When the Republican bubble was supposed to have burst in America under the stress of civil war, it was found that a democratic constitution, in which every citizen felt himself a shareholder, was capable of defying a political storm through which no monarchy could have lived.

Thus it has been in the past history of politics, and thus, we may venture to predict, it will be in the future. The prospect of liberty so ample as that which Englishmen now enjoy would have alarmed timid reformers of earlier ages quite as much as the prospect of greater political equality alarms those of our own. Yet England, notwithstanding the vaster scale and complexity of its national life, is practically easier to govern at this moment than it was in the evil days of court intrigue and parliamentary corruption. It was easier to govern after the Reform Act of 1832 than before it, and it became easier still after the Reform Act of 1867. Probably the very absence of serious discontent, and of the pressing exigencies which arise out of it, have not been without their effect in demoralizing our leading politicians, and there may be an unconscious tendency among them to compensate themselves for the want of domestic excitement by meddling with foreign affairs. But the full consequences of Household Suffrage in boroughs have not yet been felt, and those of Household Suffrage in counties will not be felt until some years after it has come into operation. By that time, national education will have done much to raise the standard of culture throughout the labouring classes, and the village Hampdens of the next generation will be very different beings from those whom Gray imagined to have been consigned to hopeless oblivion by ignorance and penury. Come what may, however, the mighty engines of Education and the Press must ever remain in the

hands of men far above the multitude in mental culture, if not in social position. Moreover, though politics never can be formulated into an exact science, a profounder and more scientific knowledge of its principles and limitations will assuredly be required of those who aspire to lead the nation in the future. Such a task as the reconstruction of self-government in English counties may then be undertaken on a more comprehensive and less tentative method than is now possible, and the new rural voters will supply a motive power which is now palpably wanting. It will not be surprising if their admission to the suffrage, instead of encouraging the system of outdoor relief, has a precisely opposite effect, and if hard-working labourers protest against their rates being raised and their wages practically reduced to feed the idle and improvident. At all events, the addition to our constituencies of a new political type cannot but augment the aggregate political capacity of the nation. The people will become stronger, but the Government will only become weaker, if men fitted by nature and position to conduct it should hold aloof from politics, or fail to rise above traditional ideas so far as to understand the new conditions of statesmanship. Those who fully realize the unexhausted and inexhaustible energy of our race, as well as the immense store of political materials which is wasted for want of use in this country, will never believe in the probability of such a consummation, until they perceive a radical change for the worse in the national character.

THE IRISH LAND QUESTION.¹

1870.

THE Irish Land Question, in its broadest aspect, opens too vast a range of legal, economical, and agricultural research, to be embraced within a single view. In its narrower and more popular sense, it is the question whether the existing relations between Irish landlords and Irish tenants are such as to call for the intervention of Parliament, and, if so, upon what principles legislation ought to proceed. The causes out of which this question arises have been traced back to ages far beyond historical record ; but the conditions which must govern its legislative settlement are to be sought in a period almost within living memory. Antique customs and modes of life, known to us chiefly by tradition or analogy, may throw a welcome light on the growth of ideas now prevalent among the people, but they are of little avail in guiding the course of national policy. That course must be guided by an enlightened insight into the present agrarian constitution of Ireland, and an enlightened foresight of the new agencies which are already in process of development. We cannot, however, understand the present agrarian constitution of Ireland, still less can we forecast her future, without some knowledge of her past history, which may at least help us to realize why a class endowed so highly with all the domestic virtues as the Irish peasant-farmers, should exhibit, in vindication of tenant-right, a spirit of lawless desperation, often breaking out into savage deeds of bloodshed.

I. From this point of view, it would doubtless be highly

¹ Reprinted, by permission, from "Recess Studies."

instructive, as well as interesting, to ascertain the exact position of those who occupied and cultivated the soil under the ancient Customary of Ireland known as the Brehon laws. We might then be able to judge how far it is historically probable that modern claims of tenant-right have their origin in tribal notions of tenure, sanctioned by the usage of centuries. Unfortunately, the Brehon laws, so far as they have already been collected and published, do not supply adequate materials for this purpose, and their interpretation is still involved in much obscurity. They exhibit a barbarous minuteness of regulation on the subject of distraint and other matters connected with land, but they do not define the rights of individual occupiers as against the chieftain, or as against the clan, with equal precision. It would appear from the most recent investigations that primitive Irish society was far more highly organized than is generally supposed, that its institutions closely resembled those of Teutonic communities at the same period, that individual proprietorship was fully developed, and that a kind of partnership, inconsistent with the spirit of feudalism, prevailed between Irish landlords and one class of Irish tenants. This relation, indeed, has been compared by the learned translators of the Brehon "Senchus Mor" with the Metayer system of Lombardy, inasmuch as the stock was supplied by the chief and the labour by the tenant; a feature which, so far as it goes, is characteristic of tenure by contract rather than of tenure by *status*. But other forms of tenancy are recognized by the Brehon laws, which, upon the whole, are indicative of a feudal rather than of a patriarchal or democratic commonwealth.

We are not, however, left without contemporary evidence on the actual working of the old Irish land-system. Sir John Davies, who studied it with admirable diligence as Attorney-General for Ireland in the reign of James I., when the Brehon law was still a living code in some parts of the country, has given a lucid account of it, not only in his well-known "Discovery," but also in his letters of earlier date to the Earl of Salisbury. After making every allowance for the prejudices of an English lawyer commenting on the "lewd customs" of a subject race, we cannot but prefer the explicit statements of such an authority,

speaking, under a sense of professional responsibility, of facts elicited by a judicial commission, of which he was himself the leading member, to whole volumes of speculative archæology. Now, Sir John Davies, while he implies that in districts under Brehon law the great mass of the people were occupiers of land, and, moreover, that demesne lands were reserved for the chief apart from the peasant lands of the clan, emphatically negatives the idea that "fixity of tenure," as now understood, was then established. On the contrary, he refers again and again to the utter uncertainty of tenure under Brehon law, and endorses the doctrine of the English courts that Irish tenants had no estates, but only "a scrambling and transitory possession at the pleasure of the chief of every sept."

A wider acquaintance with the land-systems which preceded feudal tenures in Europe, and which have their counterparts in India, justifies us in drawing somewhat different inferences from the facts adduced by Sir John Davies. It is possible that by his time the old distinctions between various classes of tenants may have been well-nigh obliterated, and that all the social orders between the chief and the mere serf had been reduced to a tolerably uniform level of vassalage. We know, from other sources, that many abuses of feudalism had been engrafted on Brehon land-tenure, and there is nothing incredible in the assertion that all Irish clansmen, of every degree, were practically subject to unlimited "cuttings" and "cosherings" at the pleasure of the chief. It does not follow, however, as Sir John Davies contended, that their condition was that of villeins, and later researches have exposed the fallacy of his belief that "if any one of the sept had died, his portion was not divided among his sons, but the chief of the sept made a new partition of all the lands belonging to the sept, and gave every one his part according to his antiquity." As Hallam remarks, "it is impossible to conceive that these partitions were renewed on the death of every one of the sept." It is far more probable, and rendered almost certain by reference to similar Indian customs and the system of "rundale," not yet extinct in Ireland, that the family inheritance was kept entire, while there was a frequent readjustment of lots between members of the family by

squaring or "striping" the land, as it is still called. To such a state of society, neither feudal nor commercial ideas of proprietorship can be strictly applied, and it was doubtless a mere error of English colonists to designate Irish clansmen indiscriminately as "tenants-at-will" of their chief. On the other hand, the attempt made on their own behalf to identify them with English freeholders, when questions of forfeiture arose, was scarcely less futile. Tenants-at-will, it is true, had their place in early Brehon law, but even they ceased to be removable after a certain period of occupancy; and Sir John Davies himself admits quite enough to show that few, if any, Irish tenants of Irish lords, in his own day, were liable to arbitrary eviction. But they were assuredly not freeholders, in the English sense, if, as seems clear, they only held land as members of the clan, and subject to various tribal obligations, besides exactions in kind, both certain and uncertain, in lieu of rent or military service. In short, it is idle to look for an exact counterpart of Brehon land-tenure in the history of our own law, or to imagine that its fantastic and half-deciphered features can possibly serve as useful precedents for this age. Whether the memory of that ancient tenant-right, such as it was, can have survived four sweeping confiscations and infinite changes of ownership and tenancy by natural means, is a different and doubtful question. It may have been treasured up, unknown to lawyers and statesmen, in minds inured to secrecy by oppression, or it may have utterly died away, and have been revived in a spurious form by patriotic antiquaries. What is certain is, that Brehon law was, in theory, less communistic than it has been represented, while, in practice, it was fatal to all progress, and, if restored, would be more intolerable to modern Irish farmers than occupation under modern Irish landlords.

II. The earliest authentic descriptions of Irish agriculture, whether under the Brehon or under the English laws, are to be found in documents of the sixteenth century. Ireland fills a very large space in the State Papers of Henry VIII.'s reign. A considerable part of it was visited by a Royal Commission in 1587-8; and copious notices of its agrarian state are contained in Spenser's "View," and other scarcer tracts by English settlers

of the Elizabethan period. The evidence of these writers is the more valuable, because their observations were made after the first great confiscation, and before the final extinction of Irish independence under James I. They naturally dwell more on the relations between English landlords and Irish tenants than between the chiefs and humbler members of Irish clans; but it is remarkable that all, with one consent, point to a *sense of insecurity among tenants* as the master-evil of Irish agriculture, both within and without the Pale. Under native chiefs, the Irish tenant had no security that he would enjoy the fruits of his labours, for they might be consumed in a single night, in strict accordance with national usage, by a band of wild gallow-glasses on a marauding expedition. Under English "undertakers" he fared better, in so far as he paid rent in lieu of uncertain dues and services; but, in spite of express provisions for his protection in the royal grants, he was usually a mere tenant-at-will.

Spenser's testimony upon this point deserves special attention. He severely blames landlords, "almost throughout Ireland," for granting no leases, but letting their land from year to year or during pleasure. He attributes this practice partly to a love of power and partly to a restlessness incident to that Utopian age of adventure, when men settled in Ireland as they might have settled in the New World, "daily looking after change and alteration." He adds, however, that Irish tenants will, in general, only take lands, "so long as they list," not choosing to make themselves permanently dependent on landlords, who may "shamefully rack them" with coigny and livery, or the like arbitrary extortions. A more probable explanation of their apparent indifference to security of tenure is to be found in the fact that, by the ancient Irish laws, a tenant accepting a lease of more than a certain length from an alien lord forfeited his tribal privileges. But this does not affect the force of Spenser's main argument. So urgent did the Irish land question of his own day appear to him, that, after setting forth the disastrous effects of insecurity, he goes so far as to anticipate the scheme of compulsory leases. "And this inconvenience may be reason enough to

ground an ordinance for the good of the commonwealth *against the private behoof or will of any landlord that shall refuse to grant any such term or estate unto his tenant as may tend to the good of the whole realm.*"

He proceeds to discourse, in language which has not lost its significance, on the beneficial influence of leases in promoting better tillage, the erection of decent houses, greater domestic comfort, and the proper enclosure of pastures—an object which he shows to be important as a measure of police. These views are confirmed to a great extent, by Robert Payne, in his "Brief Description of Ireland," published in the year 1589. Payne, like Spenser, was one of the English colony planted in Munster after the suppression of Desmond's rebellion, and his treatise is in the form of a report to the "partners," whose resident manager he appears to have been. He, too, complains that many of the English undertakers preferred Irish to English tenants, because the former would pay all the old Irish dues, and refused to give either such a tenure as would induce them to build, plant, and cultivate with husbandlike foresight. A modern reader may be surprised to learn that, in the opinion of this author, a term of twenty-one years, or three lives, was unreasonably short, and that "the better sort of undertakers" offered to English tenants "either three hundred acres of land in fee-farm, or four hundred acres by lease for one hundred years, for sixpence an acre, without any fine." One, Sir Richard Greenfield, whom he praises highly, would "let any poor man, of honest behaviour, a house, forty acres of land, and six milch kine, for forty shillings the year, for the term of three lives," remitting half that rent if the kine were returned after the farm was stocked. Another undertaker, "Master Phane Beecher," was in such repute as a good head-landlord that no more land was to be had of him. It seems, however, that he had benevolently covenanted with all his own tenants, for the benefit of their future under-tenants, so that parcels of fifty, sixty, or one hundred acres were still to be had "under as good conditions as the best, his special care being that every inhabiter there should have as much liberty as a freeholder in England." A similar treatise, by John Dymmok, supposed to have been written about

the year 1600, attributes the poverty and bad cultivation of Ireland generally to the very same cause—"the great exactions of the lords upon their tenants ; for the tenant doth not hold his land by any assurance for term of years, or life, but only *ad voluntatem domini*, so that he never buildeth, repaireth, or encloseth the ground ; but, whensoever the lord listeth, is turned out, or departeth at his most advantage, which, beside the great want of grain to supply that country, breedeth also a general weakness, for want of inhabiting and planting the people in places certain, being of themselves given to a wandering and idle life." It would be easy, were it necessary, to multiply evidence of this kind, but enough has been adduced to prove, at least, that shrewd Englishmen in the reign of Elizabeth clearly discerned that intimate connection between slovenly farming and tenancy-at-will which Irish landlords have been slow to realize in later times.

III. A century had passed away—the most eventful, perhaps, in the whole history of Ireland—when Sir William Petty, who had been employed for many years in surveying and allotting forfeited lands, embodied the results of his researches in his celebrated "Political Anatomy" and Report from the Council of Trade, dated respectively 1672 and 1674. Since the days of Spenser, the settlement of Munster had been followed by the far more statesmanlike and complete settlement of Ulster ; the Great Rebellion of 1641, kept alive by the varying fortunes of the English civil war, had been finally crushed out by Cromwell ; and the vast confiscations which ensued, driving many of the native owners into the wilds of Connaught, and many to the West Indian plantations, had been confirmed under the Restoration—with a reservation of one-third for old proprietors of proved loyalty—by the Acts of Settlement and Explanation. Sir William Petty, writing, like Sir John Davies, under the impression that Ireland had at last reached an era of permanent tranquillity, furnishes us with the earliest agricultural statistics of the country—then beginning to recover from its long exhaustion. These statistics, precious as they are, cannot be trusted implicitly, since they start with the assumption that Ireland contains but sixteen millions, instead of above twenty millions

of English acres, including lakes and waste land. The agrarian details, however, were evidently noted with the greatest care, and may probably be taken as a very near approach to the real facts. Sir William Petty estimates the whole population of Ireland at 1,100,000, of whom he reckons 800,000 as Catholics and 300,000 as Protestants. The latter, as he points out, were then concentrated for the most part in the towns and a few of the northern counties; so that, in the rural districts generally, the Catholics, according to his computation, were as twenty to one. On the other hand, he calculates that at "Christmas 1672," above two-thirds of all the good land in Ireland was in the hands of Protestants or the Church, whereas before 1641 two-thirds had belonged to "the Irish," and one-third only to "the English." Three million acres and upwards of good land had previously been assigned "to the Protestants, planted by Queen Elizabeth and King James;" indeed, the forfeited estates of Desmond alone are said to have amounted to nearly one million; and, upon the whole, it may safely be inferred that at least half of the rent-producing land of Ireland had changed proprietors in the course of a century. It is well known that Ireland was then essentially a grazing country, but it is certainly startling to find that less than 800,000 acres were arable, against some 11,000,000 acres in pasturage for cattle and sheep; while a fourth, if not a third, of the whole population were "spare hands," in the opinion of Sir William Petty. He values all the land of Ireland, bad and good together, at no more than £9,000,000, and its rental at £900,000; remarking, moreover, that in 1653, when it was at the lowest point of depreciation, the whole island might have been purchased for one million sterling.

No material change seems to have been wrought in the usual system of land-tenure by these successive waves of confiscation. All landlords, whether the descendants of Irish chiefs, or settlers from England and Scotland, now held directly from the Crown, subject to all the rules of English law. The great majority of tenants, whether English or Irish, were still tenants-at-will. The utmost pains had been taken in the reign of James I. to introduce greater security of tenure, but with little

success. Not only was express provision made in the settlement of Ulster for the concession of leases to under-tenants at moderate rents, but the same precautions were observed in accepting surrenders from Irish lords and regranting the estates on new titles. Sir John Davies considered it a great hardship and injustice that in the grants of Elizabeth "no care was taken of the inferior septs of people," and "there was but one freeholder made in a whole country, which was the lord himself." He describes particularly the plan adopted under the commissions of James I., which he fondly imagined would be effectual—how "there hath ever been a special care to settle and secure the under-tenants, to the end there might be a repose and establishment of every subject's estate, lord and tenant, freeholder and farmers, throughout the kingdom"—and how, after the demesne lands in the lord's own possession had been marked off, "the lands which are found to be possessed by the tenants are left unto them, respectively charged with certain rents only, in lieu of all uncertain Irish exactions." There is great reason to doubt whether these benevolent intentions were ever carried into full effect even in Ulster, and whether the so-called Ulster tenant-right does not date from a much later period. At all events, we find that English landlords continued to prefer Irish tenants, because they were less exacting, and, as appears from a striking passage in the Political Anatomy, were too often quite indifferent to security of tenure. "It is their interest," urges Sir William Petty, "to deal with the English for leases for time, and upon clear conditions, which being performed they are absolute freemen, rather than to stand always liable to the humour and caprice of their landlords, and to have everything taken from them which he pleases to fancy." At the same time we have a strong proof, in the same work, as well as in the Report from the Council of Trade, that a tenant's improvements were then regarded as his own property, and not as the property of his landlord. In calculating the annual value of Irish land for state purposes, the author specially deducts a sum of £216,000, or nearly one-fourth of the whole, for "*the benefit of leases, and the value of tenants' improvements upon the said lands;*" and, making a further deduction for tithes and king's

quit-rents, sets down the residue only (£482,000) "for the landlords."

Upon the whole, it is tolerably clear that in Sir William Petty's time, whatever vicissitudes had befallen Irish landlords, Irish tenants, as a body, had made a considerable advance out of the almost nomadic state in which they were described by Spenser and his contemporaries. Not a few of them, indeed, were representatives of old Irish families—once lords of the soil—and retained in their hearts, as Sir William Petty testifies, "not only a grudging to see their old proprieties enjoyed by foreigners, but a persuasion they shall be shortly restored." Others were the descendants of those peasant occupiers whose rights of ownership, as we have already seen, were secured in some degree by the Brehon law. Whatever loss may have been sustained by the former class, the latter can scarcely have suffered by the conversion of Irish into English tenures. Much has been said of the privileges attaching to all whose names were inscribed on the sept-roll, and some have maintained in effect that it was the intention of the Stuart monarchs to commute these privileges for those of copyholders in manors. The proof of this alleged intention appears very inadequate, and there is far better evidence to show that undertakers retained more Irish tenants and brought in fewer English than was sanctioned by their patents. In the meantime, we must beware of idealising the Irish tenures which the English tenures displaced. We must not compare the one as they might have been with the other as they were; but remember that if the poor clansman had something in common with a peasant-proprietor, he had still more in common with a villein.

IV. Another century elapsed, and Ireland was again visited by a sagacious English observer, who has delineated its condition with the hand of a master. Arthur Young's "Tour in Ireland," published a year or two after the "Wealth of Nations," contains the first account of Irish land-tenure on which an economist can fully rely, and is by no means obsolete as an agricultural review of the country. During the interval between the reigns of Charles II. and George III. a social revolution had passed over it. The estates forfeited after the wars of

William III. are said to have amounted to about 1,700,000 acres, and although nearly 700,000 were restored, this supervening on three previous confiscations left but a fraction of Ireland, estimated at one-sixth or one-seventh, in the hands of Catholic landowners. The Penal Laws, however, which disabled Catholics from acquiring freehold property, or even holding leases for more than thirty-one years, or at less than two-thirds of a rack-rent, had a far greater effect on the position of the occupying tenantry than any mere transfer, however violent, of the fee-simple. Their operation was cruelly aggravated by the policy which destroyed the native manufactures of Ireland, and threw its whole population on the land at the very time when commercial prosperity was promoting the consolidation of holdings in England. Under these laws, while the proportion of Protestant to Catholic proprietors was ever on the increase, Catholic farmers inevitably lost all independence, and, sinking lower and lower in the social scale, became tenants-at-will, or, still worse, cottier tenants, not of Protestant landlords, but too often of Protestant middlemen. The growth of this class—the curse of Ireland for several generations—may be traced directly to causes which reached their maturity at the end of the seventeenth century, and bore their fruit in the eighteenth.

The first of these causes was the absenteeism resulting from the substitution of an English for an Irish proprietary. Of all the adventurers, undertakers, and colonists, to whom grants of Irish land had been made, the Cromwellian settlers seem to have taken most kindly to Ireland, and rooted themselves most deeply in the soil. Among the rest, many were great English noblemen, or mercantile bodies, who never thought of actually living in Ireland, or soon quitted it for a more agreeable residence. We have no positive means of judging how far the practice of absenteeism had extended in Charles II.'s reign, though Sir William Petty, who defends it by very sophistical arguments, hypothetically assumes one-quarter of Ireland to be owned by non-residents. At the beginning of the next century, however, we have overwhelming evidence that it was felt to be a national grievance. Swift is never tired of denouncing it, and declares that one-third, at least, of the whole rental of Ireland

was yearly transmitted to England and spent there. He also speaks of the rack-rents mercilessly exacted by the middlemen, who, relieving the absentee landlord from the vexation of dealing with hundreds of petty occupiers, were virtually the land-agents of those days. Originally it was common to grant beneficial leases of enormous length, if not in perpetuity, but afterwards three lives, or thirty-one years, became the normal standard of a middleman's tenure.

Men of this class were not always even resident; they were seldom cultivators or skilled in farming, and their sole office was, in general, to screw out of the unhappy peasantry, whom they encouraged to multiply for their own advantage, a profit rent on which they could indulge, forsooth, "like gentlemen," in brutal carousing, reckless duelling, and break-neck pastimes. The memorable passages in which Arthur Young stigmatizes them as "the vermin of the country," and relates how justice was perverted by squireen magistrates to screen acts of oppression committed by their own boon-companions, throw a flood of light on the agrarian history of Ireland. They are amply illustrated by contemporary literature, and they go far to explain both the poverty and the disaffection of Ireland at the present day. Most economical evils have their countervailing advantages, but here the economical evil is aggravated beyond calculation by the social and political evil. "A set of gentry who, having no inheritance, no education, no profession, or other means of life than by getting between the inheritor and cultivator of the soil, grind the poor people to powder," never would have been tolerated in any country less degraded than Ireland was, under the joint operation of foreign proprietorship and the penal laws.

Another circumstance greatly favoured the baleful ascendancy of middlemen, and the development of cottier-tenancy. Potato-cultivation, already noticed by Petty as a predisposing condition of Irish indolence, had now overspread the whole country and become the staff of life to Irish peasants. By encouraging subdivision and cutting up his land into small patches for potato-gardens, it was possible for the middleman to obtain a rent far higher than a few large farmers could have afforded to

pay, or than any motive short of dire necessity could have extracted even from cottiers. There was, however, one privilege attached to holdings of this class, which greatly enhanced their value. The cottier had usually the right of pasturing cattle on the commons which abounded in Ireland until the reign of George III., and thus obtained a constant supply of milk, which renders a potato-diet comparatively nutritious and wholesome. But in the years 1759-61 two events occurred, which greatly increased the price of cattle and dairy produce, and made proprietors and middlemen look with grudging eyes on the poor man's right of pasturage. The first of these events was the act permitting the free importation of cattle from Ireland for a limited time; the second was a murrain among cattle, like that which recently visited Great Britain. The "cow's grass" of the cottier was now taken away in many districts, and even his little plot of tillage land was sometimes appropriated also. The direct and immediate consequence was the sudden outbreak of Whiteboyism, the origin and type of all agrarian outrage in Ireland from those days to our own. The name of "Levellers," under which the Whiteboys were first known, clearly indicates the principle of their association. They banded themselves together for the purpose of levelling the fences recently set up on common lands, and the grievance, which they too often revenged with hideous cruelty, is still most keenly felt by the poor in Donegal and elsewhere. Arthur Young, who travelled in Ireland during the years 1776-79, declares he could not find a trace of Whiteboyism having existed before 1760, and the light reflected on it by subsequent experience strongly confirms his view of its nature. It marks the beginning of an age, unhappily not yet concluded, during which the Irish peasant-farmer has lost the old semi-barbarous ideal of personal allegiance and personal service to a landlord, without having acquired the independence to bargain on equal terms for "security of tenure."

The protest of Arthur Young against leases to middlemen is the more weighty because it is coupled with the most earnest recommendation of leases to cultivating tenants. Those who quote his authority for the fallacious statement that land under lease in Ireland is worse tilled than land held at will, shut their

eyes to arguments in favour of leasing as clear as language can make them. "The meanest occupier to have a lease, and none shorter than twenty-one years, which I am inclined also to think is long enough for his advantage." Whereas Edmund Burke, in his Tracts on the Popery Laws, speaks of a thirty years' lease as "evidently no tenure upon which to build, to plant, to raise enclosures, to change the nature of the ground, to make any new experiment which might improve agriculture, or to do anything more than what may answer the immediate and momentary calls of rent to the landlord, and leave subsistence to the tenant and his family." Upon such a point, the opinion of an agriculturist may be preferred by many to the opinion of a statesman, but on the policy of leasing to actual working farmers, the view of Arthur Young and Burke is essentially the same. This view, it is needless to say, was not adopted by Irish landlords; on the contrary, a fresh impulse was given to the abuses of intermediate proprietorship and subletting, by causes which neither then foresaw. Already, in 1771, an act had been passed enabling Roman Catholics to hold reclamation-leases for sixty-one years. In 1777 Roman Catholics were empowered to hold leases for any term under 1000 years, and in 1782 they became capable of acquiring freehold property. The extension of the 40s. franchise to Roman Catholics, in 1793, incidentally gave a most important effect to these remedial enactments. Under this franchise, not only 40s. freeholders in the ordinary sense, but all persons holding a lease at 40s. rent, for one or more lives, became entitled to a county vote. At that period no spirit of political independence had been awakened among the tenants, and the priests had not learned to measure their strength with the landlords. Relying on an influence which they continued to exercise after the Union, till its spell was broken in the Clare election of 1828, the landlords, in an evil hour for themselves, granted leases indiscriminately, and with an utter disregard of all economical laws. A new race of middlemen was thus created, who, in turn, underlet and subdivided their leaseholds with reckless improvidence, partly in order to gain pocket-votes, and partly in order to avail themselves of the "war-rents" which the abnormal price of agricultural produce alone enabled farmers to pay. The close of the

great war, in 1815, brought the inevitable collapse. Those mesne-tenants who had not become owners in fee were, for the most part, ruined, and from that day forward the class of middlemen no longer figures prominently in the history of Irish civilization. After the severe lesson which they had received in the electioneering campaign preceding Catholic emancipation, Irish landlords must have seen the folly of seeking to make political capital out of leases granted on principles the reverse of those advocated by Arthur Young. In 1829 the 40s. leasehold franchise was abolished, and with it the last motive for letting to middlemen, though some of the old leases did not expire till many years afterwards, and even so late as 1845 it was supposed that one-seventh of Ireland was under leases for lives, renewable for ever. But the mischief which had been wrought lasted much longer, and has not yet become exhausted. In the century which followed the wars of William III. the population of Ireland had about trebled itself; in the half-century which succeeded the fatal gift of the 40s. franchise, it had doubled itself again. This increase was justified by no corresponding development of manufacturing industry or agricultural skill. The eight millions and a quarter who swarmed upon the land before the famine were probably worse fed, very little better housed, and far more deeply pauperised, than were the 1,100,000 of Sir William Petty's time. They were essentially the product of a vicious system which has gone far to bring leases into discredit, but which really had scarcely anything but the name in common with the system of agricultural leases in Great Britain.

V. Such was the state of Irish land-tenure when it came under the scrutiny of the Devon Commission in 1844. Their Report, and the admirable Digest of Evidence taken before them, officially published two years later, are still the most complete repertory of materials on the whole subject, and subsequent inquiries have rather illustrated than superseded their results. The process of clearance had been going on for some time, and had just been stimulated by the enactment of a Poor Law; yet there were then more than 900,000 holdings in Ireland, above 500,000 of which were under ten acres each, and the average size over all Ireland was but little above fifteen acres. What

proportion of these farms were under lease was not, and perhaps could not be, ascertained by the commissioners, who simply recorded their belief that most of the land was occupied by tenants-at-will. They found that "fixity of tenure" was already a popular watchword, and that insecurity of tenure was represented as a pressing grievance by all classes of tenants. Their own conclusion upon this part of the case is stated with greater caution than may appear necessary in the present more advanced state of public opinion, but it fully coincides with the views of Spenser and Davies, of Sir William Petty and of Arthur Young. They consider "that, as a general system, it is more for the interest of both landlord and tenant that leases should be granted," but they forbear to recommend direct parliamentary interference in favour of leases. On the other hand, after reviewing the whole question of tenants' improvements, and admitting the expediency of compensation for them being secured by voluntary agreements, they submit "that some legislative measure will be found necessary in order to give efficacy to such agreements, as well as to provide for those cases which cannot be settled by private arrangement." They even suggest the outline of a measure for this purpose, empowering tenants to serve their landlords with notice of intended improvements, strictly limited in their nature, to obtain a certificate of their propriety and maximum cost, and to recover compensation on eviction to that extent, not exceeding three years' rent.

The great Irish famine, by far the worst of Irish famines since the reign of George II., and perhaps the worst that has visited modern Europe, immediately succeeded the publication of this Report. It swept away thousands upon thousands of those peasants whose misery and whose patience are there graphically described; it destroyed, as if by a sudden blast, all confidence in that crop on which hungry millions had depended for a bare subsistence; it powerfully aided the policy of clearance, and was the first source of the voluntary emigration which has never since ceased to flow westward; it sealed the repeal of the Corn Laws; it paved the way for the Encumbered Estates Court; and it left an indelible mark on the whole agrarian condition of Ireland. Since the famine, wages have risen, mendicity

has decreased, Indian meal and porridge, dear as they are compared with the former price of potatoes, have become staple articles of diet among the Irish poor; and the one-roomed mud cabins, resembling the huts of savages, and little removed from the lairs of wild beasts, in which pigs, cattle, and poultry, lodge with the peasant's family, are dwindling away by degrees, though far indeed from extinct. Whether husbandry has kept pace with this improvement in the labourer's comfort is more doubtful. Mr. James Caird, who visited Ireland in 1849 and again in 1869, observed less evidence of progress than he had expected. He saw little difference beyond that due to a simple diminution in the number of unemployed consumers. He noticed, in general, the same want of drainage and fences, the same exhaustion of the soil by farmers without capital or without the disposition to invest it in cultivation, and the same, if not a deeper, mistrust between the landlord and tenant. In short, the greater part of the Devon Commission Evidence and Report is as applicable to Ireland now as it was twenty-five years ago. The chief exceptions are the passages depicting the misery of the labourer as distinct from the small farmer, and those which deal with farms of the very smallest class, a vast number of which are now consolidated with others. In most other respects, it is truly marvellous how little modification is necessary in the grand survey of Ireland made by the Devon Commissioners.

Side by side with this discouraging but trustworthy estimate of Irish agriculture, under conditions otherwise favourable to a rapid advance, we have one fact significant enough to be suggestive of a sufficient cause. In all its more important features, the law which governs the relations of landlord and tenant remains now what it was at the date of the Devon Commission, what it was at the date of Arthur Young's tour, what it was in the evil days which Sir William Petty vainly thought were ended, what it was when Sir John Davies helped to settle Ulster, and what it was in districts which obeyed the King's laws at all during that period of confusion and almost universal rebellion, of which Spenser witnessed the apparent close. Those relations have been affected incidentally by the Irish Poor Law and many other acts of legislation, but their legal basis remains essentially

unchanged. There has been no want of inquiry, but it has led to nothing. Not to go farther back than 1825, "the defective state of the law between landlord and tenant" was earnestly pressed upon the attention of the legislature by select committees of both Houses. In 1830, and again in 1832, the same grievance was recognized by committees of the House of Commons; and since 1835 it has been the subject of more legislative failures than any other question of the day. A list of these is given in an official memorandum, prepared by Dr. W. N. Hancock, in 1860. "Mr. Sharman Crawford, in conjunction with different members of Parliament, introduced bills on the subject in 1835, 1836, 1843, 1845, 1846, 1847, 1848, and in 1852. On Mr. Crawford retiring from Parliament, the subject was taken up by Serjeant Shee and Colonel Greville in November, 1852, and in 1853; by Serjeant Shee and Mr. Pollard Urquhart in 1854; by Mr. Moore and Mr. Maguire in 1856 and in 1857; and by Mr. Maguire and The O'Donoghue in 1858." "The number of ministerial bills is no less remarkable. They are: Lord Stanley's in 1845; Lord Lincoln's in 1846; Sir William Somerville's first bill in 1848, and his second bill in 1850; and lastly, Mr. Napier's bill in 1852." This dreary list must now be extended by the addition of Mr. Chichester Fortescue's bill, introduced in 1866, and Lord Naas' bill, introduced in 1867; besides those of Lord Clanricarde, Sir C. O'Loughlen, and other private members of Parliament, supported by the voluminous evidence taken before a House of Commons' Committee in 1865, and a House of Lords' Committee in 1867. But one Irish land-measure (though consisting of two distinct statutes) has actually passed into law during this long period of expectation. The exception is the measure of Mr. Cardwell, in the statute-book of 1860, which, however, is admitted to have remained little more than a dead letter. It established, indeed, the principle that settlements and trusts should no longer be allowed to stand in the way of equitable arrangements between landlords and tenants; and it gave tenants, making improvements with the landlord's consent, a substantial claim to compensation. But it provided so cumbersome and costly a machinery for carrying out these objects, that it has scarcely ever been set in motion. Even that part of

it which authorized loans of money to *landlords* for purposes of improvement, under the sanction of the Landed Estates Court, proved almost abortive, as the Chancery Settled Estates Act had proved before, and for a similar reason. In the mean time, very large sums of money have been lent to landlords for the same purposes, under the sanction of the Board of Works; and it is sometimes alleged, as a grievance, that equal facilities have not been provided for the execution of improvements by tenant-farmers.

VI. We are thus brought face to face with the Irish Land Question of 1870, and it becomes necessary to cast a rapid glance over the present aspect of the country. The whole surface of Ireland, exclusive of lakes and large rivers, amounts to 20,319,924 statute acres, being more than one-fifth in excess of Sir William Petty's estimate. About one-half of this total acreage is laid down in grass, and somewhat more than one-fourth is under tillage. A very small proportion is covered by woods, and more than four million acres are still "bog or waste." The number of separate holdings in 1868 was 594,441, and of these above half were of a size not exceeding fifteen acres. Only 1569 in all exceeded 500 acres, but these large farms, though representing but a fraction of the whole number, engrossed one-tenth of the whole area. It follows that fifteen or twenty acres may be taken as the size of a typical Irish farm. It is true that among the 50,000 holdings not exceeding one acre must be included the potato-gardens of cottiers, and that "accommodation-ground," occupied by small tradesmen in the neighbourhood of towns, contributes to swell the aggregate of farms under five acres. Against this, however, must be set the enormous home-farms and model farms of enterprising landlords, the grass farms of Meath let out by the season to graziers, and the sheep-farms of wild mountain districts, which mainly constitute the higher classes. The fact that nearly 311,000 out of 594,441 holdings range between five and thirty acres is decisive as to the average, and the evidence of popular language in Ireland amply confirms this estimate. A farm of five acres would still be called a small farm, and a farm of more than thirty acres would be called a large farm, in most parts of the

country, though it is certain that a gradual process of consolidation has been going on for many years past. The smallest holdings of all, being those attached to labourers' cottages, have increased by 25 per cent. since 1861, but the number of farms between one acre and five acres is always on the decrease. Since 1841 it has declined over all Ireland by 75 per cent., and in the province of Connaught by upwards of 82 per cent.

The representative Irish farmer, then, is a man holding some fifteen or twenty acres of land, including several acres of rough pasturage for the cows, of which the poorest Irish family generally manages to keep one or two, with very humble pretension to breed, yet frequently yielding a large supply of milk. Sometimes the little farm lies compactly round its steading; more often it is scattered about in irregular patches, or stretches in a long narrow strip from a hillside down towards a stream or marshy bottom. It is tilled by the farmer himself, with the aid of his sons or nephews, and occasionally of an obliging neighbour, but, in most cases, without recourse to hired labour. The degree of agricultural skill which may be applied to it varies of course in different localities; but, upon the whole, it is probable that Irish farming is more productive than is generally supposed. Potatoes are even now the main subsistence of an Irish household, and precarious as this crop is, there is no other which yields so large an amount of nourishment, with the addition of milk, off a given plot of land. Flax is undoubtedly grown in the north at too short intervals, and with little care to repair the exhausted energies of the soil; but the profit of a good season is so large as to cover many risks of subsequent loss. The unduly frequent succession of white crops, the preference of wheat to oats at elevations unfavourable to the former, and the neglect of house-feeding, are faults too characteristic of Irish agriculture; and it is a fixed rule with many of the smaller farmers never to buy artificial manure. At the same time, lime and seaweed are freely used where they are procurable. The most is made of every blade of grass that springs up under the corn: and a variety of petty shifts, dictated by necessity, make up in some degree for the want of capital judiciously invested, which strikes the eye of observers like Mr. Caird,

accustomed to see farming carried on like a manufacturing enterprise. Whatever political economy or the experience of Great Britain might lead us to expect, the fact remains that fifteen-acre or ten-acre farmers in Ireland pay a somewhat higher rent than larger farmers with at least equal punctuality, and save money enough besides, not only to defray the priest's dues, but to give their daughters considerable portions, and to keep deposits in banks, which, it is said, often lay them out in loans to farmers in Scotland. The secret of this conflict between theory and practice lies partly in the incredibly low standard of expenditure among the Irish population. If the occupiers of ten or fifteen acres send little to market, they buy hardly anything, and put up with lodging which no English labourer would endure for a week. Pigs and fowls have a prescriptive right of entrance to real Irish cabins; but it is also common enough to see the litter of a horse or cow beside the bed of its owner. Yet it would be a great mistake to imagine that a family which is thus content to herd together with animals must be otherwise deficient in self-respect or intelligence. On the contrary, the morality and shrewdness of the Irish tenantry are acknowledged by all who are intimately acquainted with them. In their ideas of domestic comfort, indeed, they retain traces of the primitive state from which they emerged so late, and this alone is a strong reason for not discouraging the civilizing influence of landlords. Whether that influence is inconsistent with greater security of tenure and greater political independence, is one of the questions which now await a practical solution.

It is needless to say that, in general, the Irish tenant-farmer holds not only without lease, but without any written agreement, nominally at will, but really from year to year, by virtue of a well-known legal presumption. So different, however, is the practice on different estates, and in different parts of the country, that very conflicting estimates have been formed of the actual proportion between leaseholds and tenancies-at-will in Ireland. The Devon Commissioners contented themselves with the surmise that a majority of tenants were tenants-at-will, and several of the witnesses examined before the House of Lords' Committee in 1867 spoke of leases as quite exceptional; but

whether, only five per cent. or as many as thirty per cent. of Irish farms were held under lease, is still a matter of dispute. Nothing can be affirmed with precision on this subject before the publication of the statistics now being collected, through the Poor-Law authorities, by the present Government. In the mean time, the basis of an approximate calculation may be obtained, indirectly, by a comparison of the holdings above £15 in annual value, with the number of persons qualified as jurors by virtue of *leasehold* interests above the same annual value. After making proper deductions for double holdings on the one hand, and possible disqualifications on the other, we arrive by this method at the result that little more than one-tenth of the larger farmers in Ireland now hold under lease. The proportion must certainly be less among the smaller farmers, and it is notorious that, in counties like Donegal, where the *petite culture* is almost universal, leases are very seldom granted. We may safely assume then, provisionally, that not above one-tenth, at most, of *working* Irish farmers are leaseholders, though it is highly probable that far more than one-tenth of the whole area of Ireland is in the hands of this minority.

There is little doubt that during the last thirty years, and especially during the last ten years, the system of tenancy-at-will has been gaining and not losing ground. The Devon Commissioners noticed a growing indisposition to grant leases; and the evidence taken before them, as well as that taken before later parliamentary committees, enables us to understand why they have become rarer and rarer. In former times, as we have seen, estates were managed through middlemen holding beneficial leases, instead of through agents paid by a salary. When the landlords realized the ruinous consequences of this practice in stimulating over-population, and when the importance of checking pauperism was further brought home to them by a Poor Law, they ran blindly into the opposite extreme, and would not grant leases even to cultivating tenants with capital to invest. A desire to exercise political influence over those whose votes were no longer the landlord's property, furnished a new and very powerful motive for the same policy; nor has this motive by any means ceased to operate. But, apart from this,

many benevolent landlords maintain that, without the power of eviction, it would be impossible for them to carry out schemes of improvement, or even to prevent the peasant farmers on their estates from relapsing into barbarism. They allow that such a power is capable of great abuse, and is sometimes greatly abused ; still, they regard it as one which, on the whole, conduces to the good of the community, and could not be superseded effectually by statutable covenants, or any like security against sub-letting and wasteful cultivation. They allege the irrelevant precedents of middlemen's leases, or leases granted by corporations, to prove that leases are absolutely prejudicial to forethought and energy on the part of tenants, and they complain that, in case of litigation, a landlord has no chance of justice from a common Irish jury. A lease, they say, is essentially a one-sided agreement ; it binds the landlord, who carries it out conscientiously, though it be to his own hurt ; it fails to bind the tenant, who is always seeking and discovering modes of evading it. They frequently add, with some inconsistency, that most tenants prefer to hold without leases, objecting to the expense, and dreading the inevitable valuation at the commencement and expiration of the term. At all events, they continue, it would be unreasonable to expect landlords to part with the control of their property at a time when revolutionary theories of tenant-right are abroad, and when concessions, possibly dictated by generosity, may be construed into acknowledgments of adverse claims.

Such are the ordinary arguments advanced by modern Irish landlords in defence of tenancy-at-will, and they are not destitute of a certain logical force. The conclusive reason for condemning it is to be found in the present agrarian condition of Ireland, and in the existence of an Irish Land Question which taxes statesmanship to its utmost. That condition, and the question which arises out of it, are the legitimate Nemesis of a precarious occupancy, perpetuated, and even extended, in defiance of warnings from the age of Spenser to the age of Petty, from the age of Petty to the age of Arthur Young, and from the age of Arthur Young to our own day. And not only has it been perpetuated, but it has been perpetuated for the most part upon the footing

of traditional usage and tacit understandings that were never understood, by verbal assurances of successive agents to successive generations of occupiers, without the safeguard of a written contract or any periodical balancing of accounts between landlord and tenant. Had the far-sighted plans of Elizabeth and James been carried into effect, had the unanimous advice of the statesmen and economists who have studied Ireland during the last three centuries prevailed over the blind instincts of self-interest, "fixity of tenure" could hardly have become the war-cry of tenant-right in the present year. Tenancy-at-will, stereotyped by custom into a system of "embryo copyhold," yet impressed by law with a liability to an indefinite increase of rent or arbitrary eviction, is the mother of the demand for perpetual fixity of tenure. It is because Irish landlords have been unwilling to grant a reasonable security of occupation, on the basis of contract, that indefinite claims of occupation for ever, on the basis of *status*, have now shaped themselves into an agrarian petition of right, supported by a powerful organization in every county of Ireland.

We cannot do justice to this movement, or appreciate the grievances, real and imaginary, to which it owes its origin, without placing ourselves once more in the position of an ordinary Irish farmer holding some fifteen or twenty acres of land. Let us endeavour, then, to realise the lot of such a man, and to interpret the feelings which underlie his fierce hatred of landlordism. We shall afterwards be far better able to appreciate the various projects of remedial legislation which have been laid before the public.

The representative Irish farmer was born upon the land which he cultivates, if not in the cabin which he inhabits. Perhaps his ancestors, in far-off times, were entered on the sept-roll as possessors of this very plot, which has been tenanted ever since by his family, though repeated confiscations may have effaced the memory of its superior lords before the last century, and its last purchaser may have acquired it under a sale in the Encumbered Estates Court. Perhaps it was painfully won from the adjoining waste by his father or himself, either in the capacity of a mere squatter, or under a verbal arrangement with

the agent that no rent should be exacted for a certain number of years. However this may be, and whether its present occupant inherited it or reclaimed it by his own industry, all that has made it a *home* for him was created by himself or his kindred, nor is it possible for him to regard it as the sole property of a stranger. Every piece of stone-work upon it, from the rude homestead to the meanest shed or byre, was erected by himself or his forefathers, every fence or enclosure was made by them, every field cleared and roughly drained by them, nor is there any visible sign of proprietorship other than his own, unless it be the occasional presence of an agent who is chiefly known to him as a collector of rent. His rent is not high, it is true, being little above the Government valuation, and far less than some insolvent and reckless neighbour would undertake to pay if the farm were put up for competition. His landlord, too, is a kind-hearted man, in his way, never raising a tenant's rent twice in one lifetime, and willing to make abatements in hard seasons, but seldom resident, and cut off from his sympathy by the iron barriers of race and religion. The genial influence of a good English squire, who devotes himself to county business, takes an interest in the parish school, directs his own improvements, and visits his labourers' cottages, is something of which he cannot even conceive. No one ever threatened him with eviction, or informed him directly that in such a case he must not look for compensation. The idea of eviction and its consequences, however, is always present to his mind, and he knows well that if he were turned out by a new proprietor with a passion for consolidation, he would have no alternative but the workhouse or banishment. He remembers that, after the great famine, scores of little cabins disappeared from the mountain-side opposite, and that nothing was ever heard again of their former inmates. It has been reported to him that in the next county vast grazing-farms have been formed out of holdings like his own, and that the experiment has been financially successful. He read only the other day a paragraph in the newspapers advertising for sale just such an estate as his landlord's, and describing it as greatly under-rented and suitable for pasture. He is aware, indeed, that here and there a good landlord compelled to part with a

portion of his property has granted leases beforehand to old tenants, and thereby protected their equitable rights against the purchaser. But he believes such magnanimity to be very rare, and dares not count upon it himself, especially as he is told that since tenant-right has come to mean downright confiscation, proprietors must get their estates, so far as possible, into their own hands. He lives, therefore, from hand to mouth, as his fathers lived before him, tilling no more land than he can till with one horse and without machinery, never laying out a penny that he can help, studiously keeping up the appearance of poverty, and hoarding the little profits of his scanty crops and butter in an old stocking, till he can lodge them clandestinely in the nearest bank for the marriage-portions of his daughters. It is vain to assure him that he may safely rely on the honour of an individual who may die to-morrow, or sell to a Dublin speculator, or be driven into a system of rack-renting by the pressure of his creditors. Why, he asks, should not the law secure to me an indefeasible right of possession, so long as I pay my rent, if this is what I may fairly expect from my landlord's sense of justice? Why should I be left absolutely at his mercy, and my children at the mercy of those who may succeed him, if it be admitted that it would be an abuse of power to disturb my occupancy or confiscate my improvements?

Such, it may safely be asserted, is the normal relation between Irish landlords and tenants in districts where Ulster tenant-right is not established. There are, of course, many exceptions, and the most has been made of these exceptions by partizans on either side. On the one side, instances are adduced of landlords who have expended immense sums on improvements for the benefit of their tenants, and with little prospect of remuneration for themselves; as well as of tenants who have taken farms on purely commercial principles far away from their own native villages, and have no more claim than a farmer in Scotland to hold on after the expiration of their agreement. On the other side, instances might be given of landlords who justify the worst suspicions and apprehensions of tenants by watching every sign of thrift and prosperity, not with a view of encouraging and rewarding it, but with a view of extracting a little more

rent, and who make no secret of their resolution to do what they will with their own; that is, to manage their estates with a single eye to profit, and without the smallest tenderness for the human beings who may chance to be settled upon them. Landlords of the former class are chiefly to be found among wealthy English noblemen or gentlemen, who conscientiously desire to make up in some degree for absenteeism by liberality and indulgence, or who are restrained by the fear of public exposure from a harsh treatment of their dependants. Landlords of the latter class are too often to be found among the capitalists who have purchased in the Encumbered Estates Court, under which it is computed that one-eighth of the island has changed owners within the last twenty years. But these exceptions are universally felt to be exceptions, and therefore affect but slightly the prevailing relation of Irish tenant-farmers to Irish landlords where Ulster tenant-right is not established. Let us next consider how far that relation is modified in districts where Ulster tenant-right is established.

In speaking of Ulster tenant-right, it must always be remembered that its operation is hardly ever tested, except where a farm is sold by an outgoing to an incoming tenant. So long as a plot of land descends in the usual course from father to son, and so long as the rent is not raised, Ulster tenant-right, so to speak, is dormant, and neither landlord nor tenant has any occasion to define it even in his own mind. It is understood, however, to signify the right of a tenant to dispose of his farm at his own discretion, subject to his landlord's veto on the selection of his successor. However surprising it may be that an usage in force during several generations over several counties should have been ignored by Irish courts, it is obvious, on a moment's reflection, how difficult it would be to reduce it to a legal rule, even if it were otherwise expedient to extend its principle to all Ireland. The value of tenant-right on any particular farm depends on two elements—the goodwill, and the profit to be expected after deducting the rent. The more these elements are analysed, the more impossible will it be found to distinguish between them, or to define either by economical laws. The goodwill must needs be more valuable where there are many

persons ready to bid for it, but it will also vary in price with the character of the landlord and the custom of the estate. It is tacitly assumed in the purchase of tenant-right that no unreasonable increase of rent will be exacted, but the line between a reasonable and unreasonable increase has never yet been drawn with any approach to accuracy. It is stated that, notwithstanding the large sums invested by Ulster tenants in improvements, the rents are there as high as in other parts of Ireland. It is also certain that, although rents may be, and sometimes are, raised so much as to "eat up" the value of tenant-right, the competition for a farm bears no definite proportion to the interest which it will yield on the money paid for tenant-right. Moreover, there is reason to believe that even where the tenant-right has been bought up by the landlord, and nothing has since been spent by the incoming tenant on improvement, he can sell his interest on going out for nearly, if not quite, as much as if he had sunk a large sum on the farm. In short, Ulster tenant-right is an inexplicable paradox until we firmly grasp one guiding principle—the principle that in Ireland security of tenure has *per se* a magical influence in enhancing the value of land both to its owners and to its occupiers. It is because the power of arbitrary eviction cannot practically be exercised in Ulster, and because the Ulster farmer has, as they say, "a hold upon the land," that he is willing to pay ten or twenty years' purchase for a farm moderately rented. It is because the landlord has, by the custom of the country, a first charge on the tenant-right for arrears of rent, that he cheerfully foregoes part of his legal rights, and submits to a qualified joint-proprietorship with his tenant. There are considerable objections, indeed, to Ulster tenant-right, and good reasons why it should not be artificially propagated, were that possible, on alien soil. Still, no student of the Irish Land Question can afford to neglect the lesson which Ulster teaches, and no settlement of the Irish Land Question can be complete which does not incorporate some results of Ulster experience.

We come back, then, once more to *security of tenure* as the one constant and vital necessity for the Irish farmer now, as it has been, in the opinion of the most competent observers, for

the last three centuries. But it is often asked why the Irish farmer should require greater security than his brethren in Great Britain, and why the English law of landlord and tenant, which is alleged to work so admirably in England, should be denounced in Ireland as iniquitous and one-sided. Both questions admit of a satisfactory though not of a simple answer. The Irish farmer has little in common with the English or Scotch farmer, beyond the mere fact of holding land. He is not an agriculturist by profession and education, but a hereditary member of that caste, embracing at least half the Irish people, which lives on the produce of its own husbandry, and cherishes all the pride of a yeoman class without the reality of proprietorship. He is a farmer, not because he possesses the skill or capital or inclination for that calling, but solely because he was born upon the soil and has no other resource but emigration. There are no considerable manufactures in Ireland, except the linen-works of Belfast and the neighbourhood, and no regular employment for an agricultural labourer all the year round, except in a few districts, even if the farmer by caste could degrade himself in his own estimation so far as to seek for it. The humble cabin in which he lives was built either by himself or his kindred as a *home*, and, looking upon it in this light, he invests it with a value to himself far above the cost of the materials and labour required to construct it. The same tenacity of land which makes him so reluctant to part with the inheritance of his fathers, even by way of exchange, makes it difficult for him to find a vacant farm in another part of Ireland, and impossible to gain possession of it without a heavy payment for goodwill, however that payment may be disguised. The chances against his being ejected may be a hundred to one; and it is sometimes described as unreasonable that he should feel insecure when the risk is so remote. But the chances against an attempt being made on the life of a given landlord or land-agent are very much greater; and yet a few agrarian outrages are sufficient to produce a natural sense of insecurity in the whole of both classes. Under like conditions, a like feeling would assuredly spring up among English farmers; and it has actually manifested itself on several occasions where the rights

of squatters have been disturbed. But in England, over and above all other differences, there are two circumstances, entirely wanting in Ireland, which greatly modify the operation of tenancy-at-will. In the first place, everything required to make the farm tenantable is done by the landlord, and at his expense ; in the second place, the landlord is usually resident, and almost always enjoys the confidence of his tenantry. In Ireland the landlord is usually non-resident, even where he is not an absentee, and rarely succeeds in winning the full confidence of his tenantry, even where his virtues command their respect and affection. It is well known that, as a rule, he neither builds nor fences nor drains the land ; but it is not equally well known how vast a sum has been invested by Irish tenants in these improvements and the purchase of goodwill. Judge Longfield, than whom there is no higher authority, states that "the marketable value of the interests which the occupying tenants have in their farms is about fifty millions sterling, *exclusive of their stock in cattle, machinery, and agricultural produce, which is worth as much more.*" Yet by far the majority of Irish occupying tenants have no other material security for this property but the expense and risk incident to an ejectment.

There is, however, a second and more palpable flaw in the parallel between English and Irish land-tenure. It is not the fact that both are practically governed by the same law at this moment ; still less that both were governed by the same law in those evil times of which the sins appear to be visited upon ourselves. They cannot be said to be governed by the same law at this moment, while local customs more widely and deeply rooted than most of those which are imported by implication into agricultural contracts in England are excluded from judicial cognizance in Ireland ; or while the Irish procedure in distress and ejectment differs from the English law in favour of the landlord. They cannot be said to have been governed by the same law, or even by the same principles of justice, so long as the Roman Catholic tenant was under agrarian as well as religious disabilities, or so long as the poorer tenant, having no legal claim to charitable relief, and no means of emigration, was driven by an extremity, which it is a mockery to confound with free-will, to

pay a famine-price for the occupation of land enough to grow potatoes for himself and his family. The effects of this oppressive system are not yet worn out, and legislative remedies may well be employed to mitigate evils for which an unjust State policy is so largely responsible. It is idle—nay, it is worse than idle—to plead the dogmas of economists against the slightest parliamentary interference with so-called liberty of contract. The Irish peasant-farmers are neither the creatures of contract, nor capable in their present state of contracting with landowners on equal terms. They are the creatures of a serfdom, produced, in great part, by successive conquests, and perpetuated, in great part, by laws in the enactment of which neither they nor their ancestors had any voice. True *political* economy recognizes facts of this nature; it is a spurious political economy which rejects them. That it is legitimate for Parliament to review the whole land-system of Ireland by the light of principles higher than mere legal or mere economical rules, admits of no question at all. The real question is upon what basis a new land-settlement of Ireland—for it is no less—can most safely be founded.

VII. There are certain general considerations of which a clear perception is essential to a solution of this question, yet which are too often left out of sight in popular discussions of it. The first, and most important, is the necessity of distinguishing between the process, so to speak, of closing accounts with the past, and the process of introducing a better system for the future. It is one thing to acknowledge and appraise equities and imperfect rights, which have grown up, no one can say how, under the loose and indefinite relations hitherto subsisting between landlords and tenants-at-will in Ireland. It is another thing to favour the growth of such equities and moral rights by prospective measures. If it was the mistake of those who framed the Acts of 1860 to have overlooked their existence, it is the mistake of many who have since propounded schemes of agrarian reform for Ireland to overlook the reasons for promoting their gradual extinction, and encouraging tenure by express contract. A second point on which it is desirable to guard against any confusion of thought, is the possible effect of legis-

lation on existing "rights of property." We must not forget that rights of property are not confined to landlords, and that, in fact, legislation is now invoked, because the Irish tenant's rights—that is, his moral rights—of property are allowed to be inadequately protected by law. Nor must we fail to observe how widely the case of a tenant who has recently obtained temporary possession of land upon an express contract or lease, differs from that of a tenant who has virtually inherited it, and has been permitted to deal with it, for many purposes, as if he were part-owner of it. The history of English copyholds supplies a precedent for treating such interests as capable of being matured into an indefeasible tenure, and commuted, at last, into tenancy in fee-simple. It is often said that nothing can properly be done by the legislature which may in the least degree impair the market-value of the landlord's estate. It is impossible to maintain this position against the paramount duty of the State to make laws for the good of the whole community. Privilege, in its Latin sense, is contrary to natural justice, but it has never been denied that Parliament may impose a general tax, like the poor-rate, on any class of property, whether real or personal, though its value may be incidentally diminished thereby. Even the purchaser in the Encumbered Estates Court, as Judge Longfield has shown, would have no ground of complaint if legislation should happen to affect him, since he was guaranteed only against latent private rights, and bought subject to all liabilities to be imposed thereafter by lawful authority. But, though a change in the law would not be open to any sound objection, merely because it might depreciate the interests of Irish landlords, it is far more probable that a land-settlement, giving security of tenure without confiscation, would have the very contrary result. The best test of its success would be the development of a large increase in the agricultural produce of Ireland, by the investment of capital, labour, and skill, now withdrawn from the land, and this increase would leave a sufficient margin for a gradual rise of rents as well as of tenants' profits. One more source of error demands notice. Since a Court or Commission of Arbitration will be necessary, on almost any hypothesis, for the adjustment of disputed claims which

may have already accrued, it is sometimes proposed to evade the main difficulties of the question by arming this body with absolute powers. The imperial legislature cannot thus delegate to any tribunal its own responsibility. The principles upon which the Irish Land Question is to be solved must be laid down once for all by the State; the utmost that can be done by judicial machinery is to apply them with a large discretion.

Bearing these considerations in mind, we have next to compare with each other the leading features of several alternative plans for the agrarian settlement of Ireland now before Parliament and the nation. Nearly all of these plans, various as they are in detail, and diverse as the quarters are from which they emanate, may be reduced to four great classes or types. The first aims no higher than a modification of the existing law, without altering its basis—as, for instance, by reversing, in respect of future tenancies, the presumption of law which vests all improvements in the landlord. The second would give legal validity to all customary rights which have already accrued, or may hereafter accrue—as, for instance, by declaring that Ulster tenant-right, and all payments for goodwill sanctioned by usage in other parts of Ireland, shall be a binding charge upon the land. The third would convert Irish occupiers, with or without exception, into lessees for ever at a ground-rent, whether fixed or variable, and subject to some restrictions—as, for instance, on subletting; while the present landlords would become, at best, the possessors of a rent-charge which might or might not be increased in amount. The fourth would provide means, by the use of State-credit, for the purchase of the fee-simple in their own farms by those occupiers whose landlords should be willing to sell, and who should be able to satisfy the conditions which might be prescribed.

1. Plans of the first class have been embodied in a series of bills introduced by Governments as well as by individuals, and have been accepted in principle by statesmen of both parties. So far as they go, they might help to mitigate the grievances of Irish tenants; but their fatal defect is, that they do not even purport to reach the root of those grievances. One of them would give a future tenant very considerable privileges, but only

in the absence of a written agreement, so that his landlord might defeat them by a stroke of the pen. Another would enable a future tenant, on application to a public office, to borrow money for certain improvements, to make them without his landlord's consent, and to obtain security for his outlay. Another would deprive the landlord of his right to evict unless the contract were in writing. Apart from any other shortcomings, all remedies of this kind are palpably inadequate, inasmuch as they leave the £50,000,000 worth of existing tenants' interests entirely without protection. The rule of compensation might indeed be made retrospective, and the landlord bound over, as it were, not to evict capriciously under the penalty of having an outstanding account with his tenant opened before an adverse jury. But this indirect method of establishing security of tenure would meet neither of the objects to be kept in view. It would keep alive the vague claims which it is so important to ascertain, and, if possible, to clear off; and it would rather impede than advance the substitution of tenure by contract for tenure by *status*.

2. The second class of plans offers, at first sight, great advantages. It rests on the presumption that custom, being of spontaneous origin, is the most solid foundation of law, and its supporters appeal with confidence to the experience of Ulster. But the experience of Ulster, however valuable, is not altogether favourable to Ulster tenant-right, nor, if it were so, would it follow that a like system would be congenial to other provinces. Ulster tenant-right is the fruit, rather than the origin, of Ulster prosperity, and represents the overflowing of surplus capital from the linen trade into the land. Moreover, it leaves tenants at the mercy of landlords so far as concerns the standard of rent, which, after all, determines the economical value of goodwill; and if Ulster landlords seldom abuse this power, it may be partly because Ulster tenants are otherwise a far less dependent class than Irish tenants in general. In fact, those who advocate this remedy do not contemplate a mere stereotyping of existing customs, mischievous as that would be; they contemplate so liberal a definition of them by the courts as would really involve a very large extension of them. Now,

though it may appear simpler to legalize all customary relations between landlords and tenants, and throw upon judges and juries the duty of codifying them, than to found a new system by Act of Parliament, this simplicity lies in the conception and not in the execution. Nor does the one demand a slighter exertion of legislative authority than the other. The interests of Ulster landlords would be quite as sensibly affected by depriving them, for example, of the right to raise the rent, as by providing for the merger of tenant-right in parliamentary leases. On the other hand, the interests of a tenantry, which, owing to its very weakness, might have no protective custom to produce, would be actually prejudiced by the adoption of a principle making custom the measure of right. This principle has a proper application, but it is properly applicable to the first only of the processes involved in a complete land-settlement of Ireland. The proof of customary rights is all-important in closing accounts with the past; it can have but an indirect bearing on the course of legislation for the future.

3. For somewhat different reasons, that class of plans described with sufficient accuracy by the common phrase "fixity of tenure," must be set aside as indefensible. The one merit of "fixity of tenure"—whether in the form of a sixty-three years' lease or of a perpetual lease—is, that it would propitiate the present generation of tenants. Whether it would permanently satisfy even them, if accompanied by the stringent conditions for good husbandry and regular payment of rent, originally proposed by its exponents, is at least very doubtful. What is certain is, that while it would amount to a confiscation of all the rights which distinguish landlords from mortgagees, it would assure to every tenant more than he ever honestly claimed, and to many far more than entered into their wildest dreams on taking possession of their farms. This it would do without the least discrimination between the deserving and the worthless, the solvent and the insolvent, the man who never failed to pay his rent and the man who is several years in arrear, the shrewd capitalist who came in yesterday and the peasant-occupier whose family has been settled upon the land for centuries. Without abolishing landlordism, it would promote absenteeism, and so

paralyze the hands of Irish landlords for good as well as for evil, that it would be far better for the State to buy up their rights. The new monopoly and double ownership which it would create would be almost equivalent to a prohibitive tariff on the transfer of land, and especially on its acquisition by the class of agricultural labourers. It is superfluous to add that it would be an effectual barrier against the adoption of tenure by contract, for that, of course, is its main design. These objections are weighty and decisive enough by themselves, and do not require to be fortified by arguments of dubious cogency. It is doubtless within the competence of the sovereign power in this realm to establish fixity of tenure, and changes not less organic have been successfully carried out in modern times by the governments of France, Russia, Prussia, and the United States. A lower sum than was voted for the compensation of West Indian proprietors would probably suffice to indemnify Irish landlords for any pecuniary loss which they might sustain by the conversion of their rents into rent-charges. But the *suprema lex* must not be invoked except where the public good imperatively demands it; whereas here the dictates of policy and justice alike point to a different solution of the question.

4. The fourth class of plans, though its principle was not long since denounced as a flagrant encroachment on the rights of property, is now generally admitted to be vulnerable, if at all, on the very opposite ground. Mr. Bright, who first broached the idea, borrowed from the Prussian land settlement, of aiding the formation of a farmer-proprietary by a State loan, had proposed to offer landowners, who might be willing to sell, a price somewhat above the market value of their estates. Whether the concession of this bonus would be necessary or strictly consistent with sound economy, is fairly open to discussion, but every one now sees that, whatever else it may be, it is not a robbery of landlords. Even those who least admire the system of rural economy which results from a minute sub-division of properties, do not deny that many parts of Ireland present favourable conditions for the experiment. It would be possible to require such guarantees of solvency and good conduct from persons applying for advances as practically to eliminate all but the better class

of farmers ; and as no one could acquire the fee-simple till all the instalments were paid off, these would probably be collected with as much facility as imperial taxes. In short, the scheme is capable of being made self-guarding by the use of judicious precautions, and may be attached as a supplementary measure to any other form of settlement. Its weakness is that it can only operate in those comparatively rare cases where there is a landlord disposed to sell, and a tenant not only ready to purchase, but possessed of the capital and energy to bear an addition to his rent for twenty or thirty years.

We cannot, then, find in any of the projects thus roughly delineated, the basis of a truly comprehensive policy on the Irish land question. That question cannot be settled without an effort of constructive statesmanship, such as this country has not made for many years. No permissive acts will avail against the profound mistrust which separates the classes interested in land ; no violent transfer of rights will produce that sense of security for which Ireland has been waiting ever since her ancient land laws were superseded by feudal tenures ; no empirical assimilation of law to custom will cure the evils which spring from vicious customs, themselves the offspring of vicious laws. Neither by taking English law, nor by taking Irish usage, as our point of departure, can we hope to arrive at a just view of the task now devolving upon the legislature. Such a view can only be gained by a careful study of the facts which have made Ireland what she is, and of the tendencies which indicate what she might be. Too exclusive stress has often been laid on the former, and pictures drawn before the famine, when the poor-law and the national system of education were in their infancy, are accepted as if they correctly represented the present condition of the country. To judge of that condition as the next generation will judge of it is indeed impossible, but the extraordinary abundance of evidence respecting it which has been collected during the last few years has brought the land question fairly within the cognizance of educated public opinion. It is our duty to exercise an independent judgment upon it, and unless an independent judgment could be exercised upon it by political students in Great Britain, it would not be ripe for solution.

VIII. In striving to concentrate our conclusions into a few principles capable of being worked out by a draughtsman into a statute, let us resolutely put aside all difficulties arising merely from prejudice or the exigencies of party tactics. Wise laws can only be framed in the spirit of a wise lawgiver clothed with supreme legislative authority. We have now to consider what kind of measure such a lawgiver would enact for Ireland, never forgetting the cardinal distinction between the process of arbitrating on past claims, and the process of building up a land-system for the benefit of posterity.

Dealing first with the past, he would lay down the broad principle that all existing tenants' improvements, made with the consent or connivance of the landlord, belong to the tenant, in the absence of express stipulation to the contrary. He would place in the same category all payments for goodwill made with the privity of the landlord, thereby legalizing retrospectively the common practice of Ulster tenant-right, where the purchase money is paid by the incoming tenant through the agent's office, and the arrears of rent deducted before it reaches the hands of the outgoing tenant. A large class of cases would remain, in which the last or some former tenant was bought out without the landlord's knowledge, or the sanction of local custom, if not in direct contravention of the rule of the estate. He would exclude these cases from the operation of the general principle applicable to Ulster tenant-right, and would not allow a pecuniary claim to be set up against the landlord in respect of expectations founded on confidence in his indulgence. At the same time, he would recognize, not indeed "tenure by *status*," but a beneficial right of occupancy, bearing an assignable money value, which might be fixed at three or four years' purchase, over and above the worth of unexhausted improvements. Where more was claimed, on the ground that successive landlords had dealt with successive occupiers upon the implied understanding that rent should not be raised, he would lay the burden of proof upon the occupier, and would not permit tenants to charge against the landlord illicit payments of blackmail, for which, perhaps, they may already have reimbursed themselves by the exhaustion of the land. On the contrary, he would treat any deterioration of the

soil by wasteful farming as a subject of set-off on the landlord's side of the account. He would, moreover, enable the landlord to plead against a claim of compensation for improvements any facts which might rebut the presumption; as, for instance, the fact of the land owing its present value to causes independent of the tenant, or the fact of its having been let at a nominal rent during reclamation, with a tacit proviso that it should afterwards be re-valued. For the purpose of assessing all these claims and counter-claims, he would institute a Special Valuation Commission, for which peculiar facilities exist in Ireland, and which, strange to say, was suggested by Spenser, on different grounds, three centuries ago. He would invest this body with a large equitable jurisdiction, and would cause a complete Domesday book to be compiled for the whole island, after full judicial inquiry, registering the ascertained amount of each tenant's interest in his holding. That amount would thenceforth become a charge upon the land, and no tenant could be evicted, except for specified breaches of duty, until his registered charge should have been liquidated.

Having thus provided for retrospective compensation, the lawgiver would proceed to pave the way for a peaceful transition of the Irish land-system from tenancy-at-will modified by custom to leasehold tenure of certain duration and upon definite terms. For he would not hesitate to act upon the conviction, supported by so great a preponderance of authority, that in this form of tenure is to be found at once the strongest incentive to scientific agriculture and the best safeguard against agrarian disputes. He would be prepared to cut the central and only intractable knot of the Irish land question, by encouraging, and if need be compelling, landlords to grant leases, in cases where a claim to receive them should have been established. He would, therefore, instruct the Special Valuation Commission to distinguish, by reference to a few simple rules, between tenants qualified to receive leases and tenants entitled only to compensation for improvements and disturbance. He would probably select as the chief test of qualification the continuous occupancy by the same family of the same farm during a certain period, coupled with the punctual discharge of all a tenant's obligations; but he

might also require some tangible pledge of an intention to execute further improvements upon it. Whatever test he might select, however, the end which he would keep in view would be to give all the most respectable tenants, above mere cottiers and allotment-holders, security of tenure without perpetuity of tenure. To effect this, he would empower the Special Valuation Commission, at the option of the qualified occupier, to commute his equitable right to compensation into a Parliamentary lease, of which the length should depend on the duration of previous occupancy, and the proofs of good husbandry on the claimant's part. His greatest difficulty would consist in fixing a fair standard of rent for such leases, but this difficulty would not prove insuperable. The standard which he would adopt would not be the old rental, for that would be a penalty on benevolent landlords, nor would it be the nominal rental that might be obtained by competition, for that might be double the annual value. He would take the public valuation, duly adjusted, as, on the whole, more trustworthy than either, leaving the commission to adjudicate upon the many circumstances which might warrant a departure from it. In the meantime, he would resort to indirect methods of inducing both parties to anticipate the action of the commission by voluntary arrangement. He would exempt leases from stamp duty; he would import full leasing powers into every settlement, and he would make government loans for land improvement conditional on the land being under lease. He would make all leases forfeitable upon wilful breaches of their essential conditions, and, in every case, he would make the acceptance of a lease operate, *ipso facto*, as a merger of all pre-existing equities.

The general result of these provisions would be that nearly all the best tenants in Ireland would hold upon the same footing as all the best tenants in Scotland, and that an amnesty of all past grievances would have been passed, so far as they were concerned. Still there would be some good tenants who had declined to accept leases in lieu of a privileged dependence, and many indifferent or recently-settled tenants who had failed to obtain them, for want of qualification. All of these, even if not protected by the Ulster custom, would have a material

security against *arbitrary* eviction in the registered charge for their former improvements and beneficial right of occupancy; but the lawgiver would hold out further inducements for the gradual conversion of the more industrious and improving into leaseholders. He would, in the first place, annul the presumption of law that an agricultural tenancy is a tenancy from year to year, and give every tenant in future the right to hold on for at least five years, in the absence of a written agreement. He would also reverse the presumption of law with respect to improvements, and deprive the landlord of the right to distrain in the absence of a written agreement. But he would not suffer landlords to be defrauded by dishonest, or the productive qualities of the soil to be ruined by incapable, tenants. He would establish a summary mode of procedure for suits between landlord and tenant, and would enforce punctuality in the payment of rent and the fulfilment of a tenant's primary obligations by the appropriate penalty of eviction.

Lastly, he would organize a Board, analogous to that which in Prussia has carried out the grand reforms of Stein and Hardenburg, for the purpose of regulating the purchase by tenants of the fee-simple in their holdings. This part of the scheme he would entrust to a department of the existing Landed Estates Court, with instructions to aid those only with State funds who, by depositing a stated proportion of the price, and finding good securities for the remainder, should have given some earnest of their capacity to strengthen that class of substantial resident yeomen of which the want is so much felt in Ireland. The same Board, associated or amalgamated with the Board of Works, might well superintend all improvement loans, which, in exceptional instances, should be extended to improvements by tenants, and might be authorized to sanction the sale of land by limited owners, for the execution of reproductive works or the redemption of tenant-right. It might also organize the means of settling the surplus agricultural labour of Ireland on a portion of the 2,000,000 acres of *reclaimable* waste.

Other changes, not less intimately but less exclusively affecting agricultural relations in Ireland, he would reserve for

a time when they may be introduced for the whole United Kingdom. For the present, he would abstain from dealing with the laws prescribing the descent of landed estates on intestacy, and with those enabling entails to be made on unborn children. He would not, however, fail to discern in the former a fertile cause of absenteeism and social disunion, or in the latter a disastrous impediment to free trade in land and an enlightened management of property. He would recognize, too, in the ballot a potent remedy against the evil spirit of class-ascendancy, since it would deprive Irish landlords of their most intelligible motive for keeping up tenancy-at-will. For it is needless to say that he would utterly reject the policy of governing Ireland through the landlords as condemned alike by experience and political science, while he would seek to preserve and even to extend their legitimate and civilizing influences.

IX. A land-settlement founded on principles like these would assuredly effect an agrarian revolution, but it would be a revolution gradual in its operation, and most conservative in its ultimate results. The fixity of tenure which it would initiate would differ from that demanded by agitators in four essential respects, being granted with judicial discrimination, limited in *maximum* duration, variable according to strict rules of previous qualification, and consistent with the landlord's sole property in what have been called "the latent qualities of the soil." That it would require careful revision in detail, and would depend in a great degree for its success on the machinery employed to carry it out, is an inevitable consequence of its elastic character. But it would at least possess two merits of the highest importance—that it would not create a double ownership, which Prussia has spent half a century in abolishing, and that it would involve no further legislation. The State would intervene, once for all, and by a single exertion of its sovereign power would reconstruct the Irish land-system, leaving all subsequent adaptation and adjustment to be worked out by the parties concerned, under the supervision of responsible public officers. Its results would register themselves with unfailing accuracy in the agricultural statistics annually presented to the Irish Government. All theorists are agreed that owners and occupiers of

land are, in some degree, trustees for the community, and bound to develop the resources of the soil for the support of their fellow-countrymen. If, then, it should be proved that far richer harvests may be yielded by the soil of Ireland under security of tenure than were ever raised under tenancy-at-will, the legislature would be justified in concluding that it had conferred a blessing on all classes in Ireland. The larger share of that blessing would be divided between Irish landlords and Irish tenants, and the returns to be derived from a far-sighted investment of capital would amply suffice, as we have already remarked, for the concurrent increase of rents and farmer's profits.

One objection remains to be considered, for it is an objection which, if admitted, is decisive against this or any other land-settlement for Ireland, short of naked confiscation. It is sure to be alleged that it will not be accepted as satisfactory or final by the Irish people. But what is this "Irish people" which is thus personified so readily for purposes of flattery or for purposes of disparagement, by those who affect to be its champions, and by those who in their hearts regard it as an inferior race? And what statesman, worthy of the name, would shape his policy by the wild and passionate aspirations of the very men whom he is striving to educate, by just laws, into a respect for government and property? And what verdict would history pass on that legislature which, at such a crisis, and with such an opportunity within its grasp, should be swayed by popular clamour, instead of acting upon a calm and clear-sighted perception of the end to be achieved?

It is not, indeed, within the compass of human wisdom to devise an agrarian settlement of Ireland which shall not offend many deep-seated prejudices and disappoint many delusive hopes. No settlement designed to awaken a spirit of loyalty and confidence among the Irish peasant-farmers can be otherwise than hateful to men who trade upon the spirit of disloyalty and suspicion; who live by maligning, not the Imperial Government only, but the British people; and whose supreme aim is to mar the constitutional pacification of their country. No settlement that raises Irish peasant-farmers to a position of in-

dependence, both political and social, can be welcomed by that party of ascendancy which looks down upon them with more than feudal arrogance, and cannot endure the bare thought of dealing with them upon a footing of equality. No settlement that favours the gradual transmutation of custom into contract, and the ultimate development of a land-system in harmony with the commercial tendencies of modern society, can fail to disgust enthusiasts who place traditional usage above economical science, and seek for their ideal of Irish well-being in a past that was never present. No settlement that jealously guards the rights and interests which have already accrued under tenure by *status*, can please that *doctrinaire* school of economists who assume freedom of contract where it could not exist, and would rather do injustice to a whole population than sanction a principle which they cannot find in their own narrow creed. But, even if all this were possible—were it possible to combine in one measure all the conflicting theories on the Irish land question—it would still be impossible to accomplish in one year that which involves a radical change in national character. No settlement to be embodied in a single act, however comprehensive and beneficent, will charm away the lethargy of Irish temperament, or undo the effects of that prolonged misgovernment which stunted the growth of industrial habits. No settlement can blot out the dark memories of a bondage which kept Ireland centuries behind the rest of Europe in the arts of peace, and for which the agrarian terrorism of our own day is but the retribution. No settlement can suddenly create in Ireland a generation of honest and patriotic leaders, capable of interpreting it to the people, and moderating the inevitable shock of a change in the organic relations of classes. No settlement can reverse the permanent conditions of soil and climate, of mineral resources, and of geographical position, which, in the absence of any political cause, would make it difficult for Ireland to keep pace with Great Britain in the race of civilization.

Yet it is possible—nay, more, it is certain—that such a land settlement as we have contemplated would break the spell which now binds the physical and moral energies of Ireland. It would at once give the whole class of improving tenants an independent

stake in the country, and enlist their support, by the strongest motives of self-interest, on the side of law and order. It would assure to all other Irish occupiers so valuable an indemnity against eviction as would be practically equivalent to security of tenure, defeasible only upon their own wilful default. It would thus relieve, at least, half the population of Ireland from the perpetual dread of "removal," but it would not root them, like serfs, in the soil, or cut off from the landless cottier the hope of becoming the possessor of a farm. On the contrary, it would promote a healthy consolidation by converting tenant-right into a marketable commodity, of which the owner might dispose freely, with the landlord's consent, either to a wealthier neighbour, or to a thrifty day-labourer seeking an investment for his little savings. It would liberate millions of capital now lying in the banks, and, imparting a new life to Irish agriculture, would arrest the chronic paralysis of Irish trade. It would sweep away the last grievance for which the Imperial Government is responsible, and, with it, the last pretext for inciting Irishmen to despair of justice from Great Britain. All this it would do, without violating any moral right of property, or checking the progressive increase in the rental of Ireland. It might not evoke a short-lived outburst of barren and servile gratitude, but it would surely quicken the latent germ of that manly public spirit which, in all time, has been the sovereign antidote against anarchical passions, and the mainspring of every civic virtue. And thus it may come to pass that, in settling the Irish Land Question, we are destined to settle that greater Irish question of which it is but a part—the question whether Ireland shall continue to brood helplessly over her ancient wrongs, a querulous and unprofitable member of the European family, or shall henceforth work out for herself her own regeneration, in cordial union with the sister-nation to which Providence has linked her by an immutable decree.

THE PAST AND FUTURE RELATION OF IRELAND TO GREAT BRITAIN.¹

1871.

THE history of Ireland, so far as it is known to most Englishmen, is essentially the history of a dependency. We are all supposed to have learned that it was conquered seven hundred years ago by King Henry II.; that it has been governed ever since by deputies or viceroys under the English crown, long retaining, however, a separate legislature of its own; that it has rebelled again and again, especially since the Reformation; and that after the last of these rebellions which attained any formidable proportions, it was finally united with Great Britain into one kingdom with a common Parliament. Some of us, perhaps, may have been led to reflect on the causes of this inveterate disloyalty, breaking out, like a volcano, into sudden eruption at irregular intervals, and may have asked ourselves how it has come to pass that a nation which has practised more successfully than any other the art of constitutional government has so utterly failed to make the Irish race sensible of the blessings guaranteed by English law. Very few, however, among English students of Irish history, carry back their researches into that age preceding English rule in Ireland, which fills so large a space in the national traditions of Irishmen. Now, if we are to gain a really comprehensive insight into the past and future relations of Ireland to Great Britain, it is absolutely necessary that we should not altogether forget this period. Without knowing

¹ This paper, reprinted by permission from *Macmillan's Magazine*, contains the substance, and partially retains the form, of an address delivered at Rochdale.

something of what Ireland was at the date of her conquest, we cannot judge, with any confidence, how far she has gained or lost by her connection with this country.

I. I confess that I have been led to a conclusion very different from that of patriotic Irish antiquaries as to the early state of Ireland. All nations have a tendency to idealize their own infancy, but, like the Egyptians and Chinese, the Irish Celts lay claim to an antiquity far beyond that of other races. They have catalogues of kings reaching back to the world before the Flood, and their uncouth chronicles, it has been said, glitter with gold and silver. We are asked to believe that Ireland, in the dark ages, was far more advanced than England or Europe in learning, arts, and civilization; that her schools were the resort of students from all nations; and that her people, divided into an incredible variety of ranks and orders, under their native chiefs, enjoyed a degree of security and comfort which they have never since recovered.

Now, I am not prepared to say that all these records are wholly fabulous, or to describe the mythical age of Ireland, like that of Greece, as "a past that was never present." I admit that in the midst of all this legendary and traditional lore two elements of truth may be distinguished. It is certain that after the epoch of St. Patrick the Irish Church exhibited a remarkable vitality, and sent forth missionaries to other parts of Europe, while Irish monks kept alive and cultivated such a love of knowledge as can be cultivated in the cold shade of a monastery. But history shows that piety is no measure of social progress, and that monastic learning may have very little effect on the life and manners of a people. There is, however, an elaborate code of laws still extant, and known under the name of the Brehon Laws, which is supposed to attest a highly organized state of society among the Irish tribes before the Conquest. Undoubtedly this code is a remarkable monument of antiquity, but its date, or rather the several dates of its various parts, are at present very uncertain, nor is its Levitical minuteness by any means a proof of advanced civilization at the period to which it may belong. On the contrary, it is a well-established rule that a fantastic multiplicity of legal forms and customs is not

only consistent with, but characteristic of, barbarism. The patriarchal judgments delivered from benches of turf, in the open air, by the private judges, called Brehons, who seem to have been entirely dependent on the chiefs, may, indeed, have been effectual in checking violence and rapine, but they represented the rudest stage in the development of law.

Against the presumptions derived from these two facts, we have to set a solid body of evidence. We have positive information that, at the time of the Conquest, there were no towns in Ireland except those founded by the Danes. There were no houses or civil buildings of hewn stone, and the first regular castle is said to have been erected just before the invasion. The people of all classes seem to have lived in wattled huts or mud cabins; they practised very little agriculture, chiefly leading a nomad pastoral life; their manufacturing industry was confined to articles of the simplest kind, and ornaments, sometimes exhibiting a high degree of taste; their only commerce was carried on by the Danes, who held the principal seaports. In all visible signs of national wealth and prosperity they were far behind the rest of Western Europe, but, above all, they had no political cohesion, and nothing approaching to national unity. Their peculiar law of descent was the parent of constant wars of succession, and it is a notable circumstance, indicating the anarchy and disorder thus produced, that very few of their numerous kings are recorded to have died a natural death. Once the military strength of the nation was rallied against the Danes by the great Brian at Clontarf, but even there Irishmen were ranged on the side of the enemy. The fragments soon fell apart again, and intestine divisions were the direct cause of Strongbow's invasion. The success of that invasion completes the refutation of the view to which I have referred. Those who believe in the glory and prosperity of Ireland under her native princes, and date all her misery from the Conquest, are bound to explain how she came to have no king or national government capable of withstanding a handful of Norman knights, and how she could have degenerated from the golden age on which they dwell so fondly, to the helpless and wretched plight in which Henry II. found her.

II. Let me here at once disclaim any disposition to justify the Conquest in itself. Like all conquests of which mere territorial aggrandizement is the motive, it stands condemned by the morality of our own age, nor can it be excused on the same grounds as Edward I.'s conquest of Wales, and attempt to conquer Scotland. But it must not be forgotten that it was a venial, if not a laudable, enterprise, if judged by the morality of the age in which it was carried out; and, moreover, that it had been expressly sanctioned by the Pope, then supreme arbiter of Christendom, who even invested it with the character of a crusade. Nor was it an English conquest of Ireland after all. It was essentially a Norman conquest, a conquest made by the same nation which had conquered England a century earlier, but had by no means succeeded as yet in combining the conquering and the conquered race into one people.

It was, indeed, the misfortune of Ireland during the period which elapsed between the reign of Henry II. and that of Henry VIII.—a period covering one-half of Anglo-Irish history—that her dependence on England was little more than nominal. Her unsettled and lawless condition throughout this period was not due to the Conquest, but to the fact that the conquest had never been completed; it was the fruit, not of over-government or misgovernment by England, but, for the most part, of government under native rulers, with little interference on the part of English sovereigns. Those were days in which the presence of a king in person was of far greater importance than at present, and nothing but a royal army sufficed to put down a turbulent and powerful baron. Yet, after the visit of John, no English king, except Richard II., set foot in Ireland for nearly five centuries. The only English armies worthy of the name, that landed in Ireland between the reign of Henry II. and the accession of Henry VIII., were those brought over by Richard II., and the formidable invasion of Edward Bruce was finally repulsed at Dundalk by the Anglo-Norman nobles and their retainers, without aid from England. For some little time after the Conquest, an effort was made to extend the new system of judicial assizes over the whole island, and the Great Charter was proclaimed there as promptly as if it had already formed part of

an United Kingdom. But English kings soon tired of reclaiming the political waste of Ireland, and found enough to do, both at home and abroad, without consolidating their Irish dominions. Rebellions of English barons in the reigns of John and Henry III., Welsh and Scotch wars in the reign of Edward I. and Edward II., French wars in the reigns of Edward III., Henry V., and Henry VI., the great Civil Wars of the Roses in the reigns of Henry VI. and Edward IV., not to speak of such popular insurrections as those of Wat Tyler and Jack Cade, engrossed and exhausted the military energies of the English monarchy. The result was, that instead of Ireland becoming assimilated to England, and gradually civilized by the influence of the Anglo-Norman colony planted in Leinster, the domain of English law and English government was gradually contracted till it embraced no more than four counties; and even within this English "Pale," as it was called, Irish manners and institutions had encroached more and more upon English manners and institutions.

In the State papers of the Plantagenet and Lancastrian period, the inhabitants of the Pale alone are designated as "the King's Irish subjects;" all beyond it were "the King's Irish rebels," or "the King's Irish enemies;" the former consisting mainly of border chieftains, both Irish and Anglo-Norman, with their retainers; the latter, of the independent native tribes occupying by far the greater part of Ireland. Had these native tribes produced any great leader, such as Robert Bruce, they would assuredly have expelled the English altogether; as it was, they held a position not unlike that of the Maories in New Zealand, receiving no protection from the English crown, and yielding it no real allegiance. In fact, Ireland was inhabited by two nations, living side by side, and intermarrying freely, in spite of prohibitory statutes, but essentially distinct from each other, as well as from the English nation in England. The English Parliament never thought of legislating directly for Ireland; the so-called Irish Parliament legislated for the Anglo-Irish colony alone, while the "mere Irish" were equally beyond the reach of either. There is abundant evidence of the exactions practised on the mass of the common people under old Irish

customs, modified and aggravated by those of feudalism. But the misery thus inflicted was not the product of English government; it resulted from the inability of English sovereigns to control Irish and Anglo-Irish chiefs. Nor does there appear to have been anything like a democratic rising against the prevailing oppression; on the contrary, as Spenser remarks, all the risings in Ireland during the Middle Ages were stirred up and headed by nobles. At last, the royal authority over the Pale, and the influence of the Pale over the country, reached their lowest point together, after the Wars of the Roses. The old Irish families recovered many of their confiscated possessions; the Anglo-Irish aristocracy, weakened as it was, could only be restrained from open revolt by playing off the rival factions of the Butlers and the Geraldines against each other. It was the head of the Geraldines, the Earl of Kildare, who, being called to account for setting fire to Cashel Cathedral, pleaded that he thought the Archbishop was in it. Yet he was made Lord-deputy by Henry VII., and when his enemies raised the objection, "All Ireland cannot govern this man," the king is said to have replied, "Then this man shall govern all Ireland."

III. We now enter upon a very different period—the darkest and most eventful in the whole history of Ireland—extending over most of the sixteenth and seventeenth centuries. It is, truly, a melancholy reflection that one of the most auspicious ages that ever dawned upon mankind—an age which brought new life to Europe, and to England above all other European countries—should have ushered in a still darker night of suffering and humiliation for Ireland. Yet so it was, and it is from this period that we must date the origin of all Irish wrongs, so far as England is responsible for them.

How did this come to pass? Certainly not from any want of goodwill, or even of earnest and intelligent study, on the part of the Englishmen mainly concerned with Irish affairs. Ireland fills a very large space in the State papers of the Tudor period; we have reports on her condition from Royal Commissions, a voluminous correspondence between Irish Lord-deputies and English Councillors, with numerous treatises and schemes of reform by private authors. All these breathe, for the most part, the

same just and humane spirit which characterizes the most eloquent of them, the famous dialogue of Edmund Spenser, himself a settler in Munster, on the Present State of Ireland. It would, indeed, be difficult to express the anxieties and misgivings which still oppress the most hopeful minds in legislating for Ireland, after the lapse of three hundred years, in language more pathetic or appropriate than is put by Spenser into the mouth of "Irenæus" in the opening of this discourse:—"Marry, so there have been divers good plots devised, and wise counsels cast already about reformation of that realm; but they say it is the fatal destiny of that land, that no purposes, whatsoever are meant for her good, will prosper or take good effect; which, whether it proceed from the very genius of the soil, or influence of the stars, or that Almighty God hath not yet appointed the time of her reformation, or that He reserveth her in this unquiet state still for some secret scourge which shall by her come into England, it is hard to be known, but yet much to be feared."

Such were the feelings of English statesmen towards Ireland in that great age, when statesmanlike ability was not scarce in England, and when the best statesmanlike ability in England was brought to bear upon Irish government. Some of the ablest sovereigns in our history, Henry VIII., Elizabeth, and William III., grappled vigorously with the Irish question during the period now under review. They were aided by such counsellors as Burleigh and Bacon, Sir John Davies and Sir William Petty; they were represented in Ireland by such governors as Surrey, and Perrot, and Mountjoy, and Ormond. Even Cromwell, ruthlessly as he avenged the massacre of 1641, was not the cruel oppressor that Irish historians would have us believe, and the administration of his son Henry was long remembered with gratitude in Ireland. Even Strafford, "that star of exceeding brightness, but sinister influence," as Hallam calls him, mingled beneficent measures with his dark and arbitrary counsels, and left Ireland more prosperous than he found her. The general object of English rule in Ireland under the Tudors and Stuarts, as in subsequent times, was one of which there is no reason to be ashamed. It was to unite the Irish and English people into one nation; and, with this end in view,

many excellent plans for civilizing Ireland were set on foot, including more than one for establishing a thorough system of national education. If all these plans failed—if Ireland at the Revolution was hardly more advanced and far more discontented than Ireland at the Reformation—the cause must be sought in the Jesuitical statecraft, typical of that period, which scrupled not to compass Utopian aims by violent means, and was incapable of appreciating the rights, still more the sentiments and traditions, of a subject race.

In this spirit, four lines of Irish policy were marked out and carried into effect during the sixteenth and seventeenth centuries, which completely altered the relation of Ireland to Great Britain.

1. The first of these was the complete subjection of Ireland to the English monarchy and legislature. Before Henry VIII., the sovereign of England was "Lord of Ireland." After the formal submission of the Irish chiefs in that reign, he became "King of Ireland" by Act of Parliament, and the change of title was followed, in the reigns of Elizabeth and James I., by a complete establishment of the royal authority, judicial and administrative, throughout Ireland. The whole island was now reduced to "shire-land;" judges made their circuits regularly through every part of it; the king's writ "ran," if it was not obeyed, everywhere; and the old Irish land-tenures were abolished by the English Common Law. In the meantime, the famous statutes known as Poyning's Laws, passed in the reign of Henry VII., had made all legislation by the Irish Parliament dependent on the English Privy Council. This measure was probably designed for the protection of the native Irish, as well as for the maintenance of imperial interests, against the oligarchy of the Pale. In effect, however, it became a powerful instrument of legislative oppression, especially after the Irish representation had been packed, in favour of the Protestants, under James I.

2. The second branch of the new Irish policy was the introduction and establishment of Protestantism by law. The earlier relations of Ireland with England were embittered by no difference of religion. In the reign of Henry VIII., the English

liturgy was ordered to be used by royal proclamation, and in that of Elizabeth the doctrines and discipline of the Reformed Church were imposed upon Ireland. Many of the bishops conformed readily; the chief resistance was made by the inferior priests; as for the people, no account was taken of them, and no attempt made to convert them. The Scriptures were not translated into Irish, and it was enacted that where the congregations did not understand English,—that is, in almost every Irish parish,—the prayers might be read in Latin. On the other hand, there was little active persecution, and the condition of Irish Catholics, as Macaulay has shown, contrasted very favourably with that of English Catholics, in respect of civil liberty, until after the Great Rebellion of 1641. That execrable code of Penal Laws which is the shame and reproach of our Protestantism, was the consequence of that event, and of the civil wars that continued with little intermission up to the subjugation of Ireland by William III. It is, happily, needless to dwell on its iniquity, or on its profound influence in estranging the Irish people from their rulers. But I am not sure that its less obvious effects in stunting Irish education and disorganizing Irish society have been yet appreciated, while they are certainly not yet exhausted.

8. Yet even greater and more irreparable mischief was wrought by a third line of policy, relentlessly pursued during the same period—the policy of confiscation and settlement. This is too vast a subject to be treated here in detail, but it is right to be on our guard against the idea, too prevalent in Ireland, that English Governments seized and appropriated Irish land simply to gratify the rapacity of English adventurers. On the contrary, I believe the chief motive of those who originated the plantation of forfeited Irish estates by English colonists was to civilize and benefit the country. This, indeed, clearly appears from contemporary documents, though it cannot be doubted that afterwards territorial avarice, on the part of English kings as well as of English settlers, had much to do with Irish “settlements.” Among these, we may distinguish four, as the most sweeping and important, each following on the suppression of a great rebellion,—the settlement of Munster in the reign of Elizabeth,

the settlement of Ulster in the reign of James I.; the Cromwellian settlement, confirmed to a great extent under Charles II.; and the settlement of William III. The joint result of these settlements was that by far the largest part of Irish soil, estimated by some at nine-tenths, was transferred into Protestant hands. Whatever may be said in defence of them, I do not hesitate to recognize in them, and their direct fruits, the main origin of the instinctive Irish mistrust of English government and English law.

4. Still less venial, and only less disastrous, were the suppression of the Irish woollen trade, which dates from the viceroyalty of Strafford, and the restrictions afterwards placed on the Irish cattle trade. These cruel measures were only too successful, and they were justified solely by the supposed commercial advantage of England. It was in reply to an address from the English House of Commons, that William III. said, "I shall do all that is in me to discourage the woollen manufacture of Ireland." When "the trade of Ireland" was proposed as a toast, in Swift's presence, he replied, "Sir, I drink no memories." The constitutional right of England to regulate the commerce of Ireland, as she might have regulated that of a West Indian colony, might perhaps be plausibly vindicated. But constitutional right is not a moral right; and Berkeley, who benevolently advised the Irish to direct their industry to permitted branches of trade, would have done still better to lift up his voice against the selfish protectionist spirit in England which arrested the natural process whereby Ireland might have gradually recovered from the devastation of war.

IV. During the first half of the eighteenth century, the state of Ireland, as described by Swift, Berkeley, and Boulter, was one of utter and complete prostration. Neither in 1715, nor in 1745, was there any rebellious movement; and Lord Chesterfield, who was Lord-lieutenant in the latter year, was even able to send troops over to Scotland. At this period, indeed, most of the leading spirits among the Irish Catholics were serving under the king of France. The statement, often repeated, that 450,000 Irishman died in that service between the Boyne and Fontenoy, is barely credible, but the number was certainly enormous, and

Berkeley, writing in 1785, speaks of "the major part" of Irish patriots as being "in the French interest." Four years later, Ireland was visited by a potato-famine, second only in horror to that of 1846, but arising wholly from a severe frost, against which, strange to say, the people had not the skill to protect their store of potatoes. It was not, however, until 1760, that any serious manifestation of discontent took place. Then broke out the famous Whiteboy rising, the origin and type of all subsequent agrarian disturbances, provoked by arbitrary encroachments on the right of pasturage, and prosecuted with all the ferocity of a servile war. Absenteeism had now come to figure prominently among Irish grievances, and directly produced the system of middlemen. The middleman, in fact, was a resident yeoman or farmer, who stood in the place of the modern land agent, and developed on his ill-gotten profits into the squireen whom Arthur Young has rendered for ever infamous.

Yet there was a growing spirit of independence even during the reigns of George I. and George II. which prepared the way for the peaceful revolution of 1782. This spirit made itself felt, not among the Irish masses, but among the Anglo-Irish oligarchy, which now had a monopoly of Irish legislation. The right of England to prohibit the export of Irish goods from Irish ports was challenged, the appellate jurisdiction of the English House of Lords was disputed, the legislative supremacy of the English Parliament over Ireland was resisted. At last the American revolution fired the train. The armed volunteers of 1779 first extorted the concession of Free Trade, which had been promised by Charles I., and three years later achieved, under Grattan, the legislative independence of Ireland.

Full justice, and more than justice, has been done by historians to the short-lived Irish Parliament thus launched into existence in 1782. That it showed vigour and patriotism in its early measures, is beyond question; but it is no less certain that it very soon betrayed all the weakness that might have been expected from an assembly so constituted, aspiring to co-ordinate power with the British legislature. Exclusively composed of Protestants, mainly composed of placemen and nominees for pocket boroughs, and divided within itself by the double influ-

ence of corruption and mutual distrust, the "independent Irish Parliament" was hardly more competent to represent all Ireland than the new convention of the Protestant Episcopalian Church. It produced some great orators, it is true, but "they lived for the most [part in a society which was a whirl of reckless gaiety and conviviality, alternating with barbarous duels and ghastly suicides;" and for want of true statesmanship to guide its councils, its meteoric career was marked by as many blunders as could well have been made within a period of eighteen years. Forgetful of its own democratic origin, though it extended the franchise to Catholics in 1792, it refused Catholic Emancipation, and deliberately rejected Parliamentary Reform. Out of mere jealousy, it demurred to the restrictions embodied in the English Regency Bill, and stickled for the hereditary rights of the most worthless prince that ever filled the position of heir-apparent to our throne. Finally, and above all, it entirely failed to anticipate or arrest the great rebellion of the United Irishmen, of which the first impulse was undoubtedly given by the French Revolution, but which did not break out till that revolution had expended its force in France itself. It is needless to dwell on the horrors of 1798; it is enough to say that, after that year, the fate of the Irish Parliament was sealed, and the Union became inevitable.

V. It is well known that wholesale bribery was employed to buy up the interests opposed to the Union. It is not so well known, that the Union was preceded by a most exhaustive discussion of the relation between Great Britain and Ireland, still accessible in a voluminous collection of pamphlets, which may compare favourably with more recent controversies on the same topic. This great experiment has now been tried for above seventy years. If it has not yet realized all the sanguine expectations of its promoters, it has assuredly not proved a failure, so far as it can be tested by tangible results. At this moment, Ireland supports a population somewhat larger than she contained at the Union, in far greater comfort, and in a far higher stage of civilization. The Irish peasant of 1871 is infinitely better fed, housed, and clothed, than his grandfather, and this improvement in his lot has not been purchased at the

expense of other classes. The farmers, in particular, have deposits in the banks which seventy years ago would have seemed fabulous, and pay wages twice as high with much less effort, in spite of a progressive increase of rents. The landlords are not only wealthier, but spend a greater portion of their wealth in Ireland, the causes of absenteeism having been diminished under the Union, though Dublin has ceased to be a seat of Government. If manufacturing industry has not been developed proportionably, it has certainly not been the fault of imperial legislation. For instance, it should not be forgotten that above eleven millions and a half sterling have been advanced from the Exchequer for public works under the management of the Public Works Commission, besides more than seven millions advanced for other public works, and that of the former sum fully one-half has been remitted. Still Ireland is among the poorest countries in Europe, and this relative poverty cannot be adequately explained by physical causes, for, even in respect of coal supply, her eastern coasts are at no disadvantage compared with many thriving parts of England. It is, in fact, mainly due to a want of energy and steady industry in Irish national character, which cannot be wholly the result of English misgovernment, inasmuch as it was noticed as the great obstacle to improvement in Ireland when she was, practically, self-governed. No doubt, still more could have been done, and ought to have been done, by the United Parliament during the early part of this century to repair the ruin wrought in the evil days which preceded it, but, for more than forty years past, remedial measures have followed each other in rapid succession. Of the four lines of Irish policy carried out during the sixteenth and seventeenth centuries, two were reversed before the Union, by the abolition of all commercial restrictions and the concession of legislative equality. The worst of the penal laws had been repealed still earlier, but the Protestant Church retained its ascendancy, mitigated, however, by the Tithe Commutation Act, till it was finally disestablished in 1869. The policy of confiscation and settlement did not admit of being thus annulled, but its real victims have long been cold in their graves, and its secondary effects on the mass of occupiers have been greatly mitigated by

the concession of tenant-right. But two generations have elapsed since the Union, yet not a single practical Irish grievance remains unredressed. Catholic Emancipation, the National System of Education, the Poor Law, the Encumbered Estates Act, the Church Act, the Land Act, and the present extended suffrage, are monuments, not of Irish, but of Imperial legislation, which has also produced a long series of solid administrative reforms. There is nothing to warrant the assumption that a greater number of beneficent measures would have been carried by a native Parliament within a like period, and it is at least as probable that some of these would have been defeated by the mutual animosities of Irish parties. As for the numerous Coercion Bills, which are sometimes adduced as proofs of imperial tyranny, it is enough to say, that a vigorous repression of lawless outrages would have been equally the duty of a native Parliament. Nor can it be replied, with truth, that Irish outrages, either agrarian or political, are provoked by "foreign rule;" on the contrary, they were never more rife than while the "independent Irish Parliament" was sitting in College Green.

The political tranquillity of Ireland for nearly a generation after the Union was, on the whole, remarkable. It was broken at last by the famous Clare election, the immediate precursor of Catholic Emancipation. The wonderful personal influence which O'Connell acquired by the part which he played in that great triumph, was employed by him ten years later in organizing the agitation for Repeal. This agitation, formidable as it was, had well-nigh died away, before it was extinguished by the famine of 1846, and the secession of the Young Ireland party. The abortive rebellion of 1848, headed by the Young Ireland party, was the last insurrectionary movement in Ireland which has commanded any degree of support from the educated or wealthier classes. Like that of 1798, it was the after-clap of far greater convulsions on the Continent; like that, moreover, it was set in motion by Protestants, but, unlike that, it entirely failed to revive the old national spirit of Irish disaffection. What the aims of its leaders may have been, whether they had any common or definite aims, and whether, if successful, they

would have proclaimed a republic, or offered the crown of Ireland to Smith O'Brien, it would now be idle to inquire. The Young Ireland party, as such, has now ceased to exist, and Fenianism is the only living expression of that malignant and vengeful enmity against Great Britain as a nation, which, rooted in antipathies of race, intensified by antipathies of religion, and almost justified in past times by a real sense of oppression, is now mainly kept alive by the efforts of an anti-British propaganda on the other side of the Atlantic. Fenianism, therefore, is the connecting link between the past and future relation of Ireland to Great Britain.

VI. The future relation of Ireland to Great Britain may be founded on one of three principles. Of these, one is broadly represented by the Fenian policy; another by the policy of O'Connell, hardly disguised in the new project of "Federalism;" and a third by the policy of Mr. Pitt, Mr. Gladstone, and all other British statesmen who have earnestly grappled with the Irish question.

1. In speaking of a "Fenian policy," I may perhaps be censured for treating Fenianism too seriously and too respectfully. I can only reply that, in my judgment, no cause which is capable of rallying great masses of men, and for which many have been found willing deliberately to brave death or imprisonment, can wisely be treated as contemptible. At the same time, I admit that we can only distinguish the vaguest outlines of a policy in the Fenian documents which have fallen into the hands of the Irish Government, and in the manifestoes issued by the Fenian organization in America. From these it would appear that no definite plan has yet been put forward beyond the establishment of an Irish republic on the American model. It is implied, rather than expressed, that this Irish republic would be altogether independent of Great Britain, while its constitutional form remains to be foreshadowed, nor is there anything to indicate how it would deal with such fundamental institutions as religion and property.

Such is the Fenian ideal—the ideal of an Irish republic existing by virtue of an undying hostility to Great Britain, without any other *raison d'être* or aspiration. Yet Fenianism is the

political creed professed by millions, and, whatever its strength or weakness in Ireland, governs the balance of parties in the United States. Let us, then, put aside all question of military feasibility, and, looking at it from a purely Irish point of view, consider what chances Fenianism has of success, and what prospect there would be of regenerating Ireland by the adoption of a Fenian policy.

Now, the first thing to be observed is, that Fenianism is not a native product of Ireland at all. It is essentially of American growth, and the very first article of the only regular scheme for its organization which has come to light provides that its headquarters shall be in the United States. Ireland is to be recognized by American Fenians, but how they are to divide the spoils with their Irish brethren, and how Ireland is to support them all, even after the expulsion of Saxon landowners, does not seem to have been settled. So long as Fenianism is purely negative and destructive, such difficulties can be ignored; if it should ever assume a positive and constructive aspect, there will be no escape from them.

But, again, Irish nationality in a republican form has no historical basis. All the national traditions of Ireland are monarchical and aristocratic. There were many elements of self-government in Anglo-Saxon England, and the whole subsequent course of English history has been one long training in self-government. Ireland, on the contrary, was then governed on a tribal or patriarchal system; that system was replaced by a disorderly and lawless feudalism; and whatever ideas of self-government Irishmen may since have acquired have been imported from England or America. Accordingly, the republican spirit of Fenianism, so different from that which animated the earlier Irish rebellions, has never, so far as we know, taken hold of the really powerful classes in the country, the old Irish gentry, the priests, the farmers, or even the well-to-do shopkeepers. The priests, especially, dread its irreligious and leveling tendencies; and however the more timid of them may shrink from denouncing it, they will assuredly do their best to check its progress.

After all, however, the main question is whether a Fenian

republic, if it could be established, would be in harmony with the existing national character of the Irish people. I maintain that it would not, and that, unless that character should be profoundly changed, an Irish republic would, in all human probability, turn out a disastrous failure. Republics of the American type must derive their life from a democratic sentiment, from a deep conviction of human equality. Now, Mr. Butt, who is a competent witness on this point, declares that "there is no people on earth less disposed to democracy than the Irish." The Irishman's notion of equality is proverbial. While in Great Britain every gentleman of sense and education feels the intrinsic hollowness of social distinctions, the veriest Irish beggar aspires to be a gentleman, gives himself the airs of a proprietor in the mud-cabin which he shares with the pigs, and cherishes the family pride characteristic of his race. There is something to admire in this temper, but it certainly is not the democratic temper, and without the democratic temper republican institutions could have no stability. But this is not all. Republican institutions must rest on republican virtues, and republican virtues are, unhappily, just what Ireland most wants. It may or may not be the result of misgovernment, it may or may not be remediable, but the fact is patent that in the Irish national character, as we see it, there is a great lack of moral independence, of self-respect, of mutual reliance, of political courage, and, above all, of truthfulness. With some virtues of the head and heart it is more richly endowed than our own, but in the public virtues it is sadly deficient; and no one who knows Ireland will deny that Irish political morality is far below the standard of England and Scotland, if not of France and Italy. If we look at the conduct of Irish elections, if we look at the gross jobbery which prevails in municipal and county business, if we look at the shameful venality and shameless mendacity which succeed in imposing on Irish popular opinion, we may well be tempted to despair of developing a healthy public spirit in a community so tolerant of political dishonesty, and the words may perhaps rise before us—"The prophets prophesy falsely, and the priests bear rule by their means, and my people love to have it so, and what will ye do in the end thereof?"

This weakness of principle in public men, this bitter and unscrupulous partizanship, is notoriously among the greatest difficulties of Irish government under an united monarchy; it would be fatal to Irish government under a Fenian republic. Such a republic, we may safely predict, could not last ten years; it would end in bloodshed and anarchy, probably to be followed by a clamorous demand for a restoration of the Union, or for annexation to some foreign state. What is more doubtful, but not unworthy of reflection, is whether either of these demands would then be granted by those to whom they might be addressed.

2. The policy of O'Connell and the Federalists is open, though in a less degree, to some of the objections already urged against a Fenian republic. Whether Ireland retained or forfeited her representation in the Imperial Parliament, the experiment of an Irish Parliament for Irish affairs must depend for its success on the independence of Irish constituencies, the personal integrity of Irish statesmen, and the habit of loyal co-operation between Irishmen of different classes and creeds. Yet these are the very conditions which, as we have seen, are still wanting, and the absence of which paralyzed the Irish Parliament before the Union.

Those who recognize this, and who also hold that Ireland has gained in every respect by the Union, will, of course, need no further argument against Repeal. But even those who dispute both of these views would do well to consider how far the favourite precedent of Hungary is relevant, and what the practical relation of Ireland would be to Great Britain, in days like these, if they were under the same crown, but with separate parliaments. Federalism would not, and could not, be an equal alliance, but, at best, a "dog-collar union," in which the two countries would very soon pull in opposite directions, and, unless the coupling broke, the stronger must usually have the advantage. When British and Irish members come together at Westminster, there is a great deal of "give and take," and Irish ideas sensibly modify British ideas, though not always for the better. If the one body met at Westminster, and the other at Dublin, there would be an inevitable conflict on home legislation, and a

still more inevitable conflict on the conduct of foreign affairs. No constitutional reservation of foreign affairs to the control of the Federal legislation would prevent resolutions of sympathy being passed, and promises of support being given, by an Irish Parliament, which must be repudiated on the part of the Empire. All the elements of discord would thus be quickened ; it would be impossible to carry on the partnership, and Repeal would end in Secession.

There is another consideration which has been strangely ignored by the advocates of Federalism. They profess to contemplate no radical alteration in the constitution, and propose to revive the Irish House of Lords as well as the Irish House of Commons. It may be presumed that, in reconstituting the Irish House of Commons, a very democratic suffrage would be adopted as its natural basis. Let us, however, waive this presumption, and suppose the existing franchise to be maintained ;—what prospect would there even then be of harmonious concert between the two Houses, the one representing Celtic and Catholic peasant farmers or tradesmen under priestly influence, the other composed of Saxon and Protestant landowners ? The question is one which reveals the hollowness of Federalism, and it is difficult to believe that it can have been overlooked by the real promoters of the federalist movement, as distinct from its ostensible leaders. For the federalist movement bears all the signs of a political imposture, in which the real promoters and the ostensible leaders have very different ends in view. The latter are chiefly actuated by passionate resentment against the English authors of the Church Bill and the Land Bill, by the desire of gratifying their own self-importance, or by the nobler ambition of rescuing Ireland from the humiliation of which they are conscious, without discerning its true cause. The former have no motive but enmity to Great Britain, and no aim but separation from Great Britain, at any price—even at a price of which their well-meaning dupes have little thought or conception.

8. I fall back, then, on the policy of Pitt and Gladstone, as the best and only true Irish policy for British statesmen, and upon union as the happiest relation of Ireland to Great Britain in the past, in the present, and, still more surely, in the future.

Not that I would adhere slavishly to the letter of the Act of Union, or that it may not be desirable to give Ireland a larger share of local self-government than she now possesses. On the contrary, in common with all English Liberals, I heartily approved of the Church Bill, which annulled a fundamental article of the Union, and I believe that much of the Irish business now transacted at Westminster might be transacted with advantage in Ireland itself. The fact is, that Parliament is quite overweighted with the duty of legislating about matters of detail, which might be far better managed by town-boards or county-boards, or even provincial boards. This applies to England and Scotland, but it applies specially to Ireland, and I share the opinion entertained by many, that in Ireland some reasonable discontent might be avoided by throwing more into the hands of such bodies as these, if not of the Lord-lieutenant in council.

Beyond this I am not prepared to go in the direction of what is called "Home-rule" in Ireland. My policy would be the very opposite. I would apply to Ireland, with due regard to her circumstances, every just and wise principle adopted in English legislation. I would promote by all means greater intercourse, commercial, social, and political, between Great Britain and Ireland. I would bridge over, so far as possible, the narrow belt of sea which separates their coasts, and bring Ireland within those influences which have made Scotland, with half her population, an example to England herself, and to all Europe.

I maintain that Scotland furnishes a complete answer to most of the fallacies current about Ireland. If anyone tells me that Celts and Saxons cannot live together in harmony, I point to Scotland. If anyone tells me that you cannot have an equal union between a weaker nation and a stronger nation, I point to Scotland. If anyone tells me that national pride and patriotism cannot be sustained without a separate national government, I point to Scotland. And, speaking as an Englishman, I tell Irishmen that if Scotland, with a far more genuine and illustrious national history, with a far stronger national character, and with far more recent experience of national independence, has

never repented of sacrificing that independence to bear a foremost part in an empire which encircles the globe, there can be no degradation to Ireland in accepting the same destiny.

What, then, are the arguments against a cordial union between Ireland and Great Britain? I know of one only. It is that the Irish people have too deep-rooted an antipathy to England to endure an intimate connection with her, however favourable to their own interests. Surely, to state such an argument is to refute it. Surely, to represent the Irish nation as actuated by a motive so pitiful and so unreasonable, is the worst libel that has yet been uttered against them. Surely, it is time for us to have done with fanciful and allegorical pictures of Ireland, as a forlorn maiden, brooding helplessly over her bygone wrongs, pointing to the wounds that are now finally healed, and clanking the chains that have been struck off for ever.

I deny, for it is grossly false, that England—if by England is meant the great mass of the English people—ever conspired to exterminate the Irish race, even in the evil days of which we have been speaking. The very worst that can be said is that English kings and viceroys carried out an oppressive policy, often dictated by good intentions, with the aid of servile Irish Parliaments, and that English Parliaments did not interfere to prevent it. But in those days nine out of ten English householders had nothing to do with Irish government, having no representation in their own legislature, much less any share in the administration of dependencies. Let it be granted, however, that all Englishmen who lived during the period of Irish oppression were morally, as they were constitutionally, responsible for all that was done. Is that a sound reason, is it even a decent pretext, for vowing immortal hatred against Englishmen now living, and visiting the sins of our ancestors in the reign of William III. or James I., upon ourselves in the seventh or tenth generation?

Nor is this all; far from it. Not only has Ireland received no injury from Englishmen for many a long day, but history will bear witness that she has reaped her full share of blessings from the beneficent legislation of the present century, and notably that in the last two years she has engrossed the most

earnest attention of the Imperial Parliament, while the interests of England and Scotland have been for the time put aside.

I have already said that, in my opinion, there are many local Irish matters which may well be left to local bodies in Ireland. But, having said this, I must express my firm conviction that an Imperial Parliament is more competent to legislate wisely for Ireland on greater matters than an Irish Parliament would be ; and moreover, that it would be a grievous breach of national duty for us to leave Ireland, in so early a stage of her political education, to legislate for herself. If she were fit to legislate wisely for herself, if she had the materials out of which a strong national parliament could be made, if she were capable of realizing the Hungarian ideal which has been set before her, why does she not return a set of members equal in calibre and weight of character to the representatives of Great Britain, and able to command their due proportion of seats in the Cabinet ? Yet no one can say of Ireland, as of the United States, that her ablest men are unwilling to come forward as parliamentary candidates.

And here I must protest against governing Ireland, as the saying is, according to Irish ideas, whether from Westminster or from Dublin. What are these Irish ideas ? They are the ideas of a peasantry whose minds have been dwarfed, while their feelings have been hardened, by the effect of the penal laws, and the denial, up to a recent period, of national education. They are the ideas—not of a middle class, for in Ireland there is no real middle class—but of half a million farmers, with no more than a child's knowledge of politics or political economy, and of struggling tradesmen dependent on the custom of these very farmers. They are the ideas of a Protestant clergy, which has been demoralized by unjust patronage, and of a Catholic priesthood, which has been demoralized by unjust neglect, on the part of the State. They are the ideas of a landed aristocracy, which, as a body, does not possess the confidence of the people, and is not, like our own, united with the people by the sympathies and charities of country life, though some members of it, smarting under the Church Bill and the Land Bill, affect a conversion to Nationalistic doctrines. They are the ideas of a press whose most

popular organs stand alone in Europe for mendacious scurrility, and whose most respectable organs seldom dare to speak forth the words of truth and soberness.

If this be so—and who can deny it?—I submit that England has no right, whatever self-interest might dictate, to shake off connection with Ireland, leaving her to drift helplessly athwart the current of modern civilization, and plunging her again, as I verily believe, into the horrors of civil war. The example of Derry is enough to show us how fierce, how implacable, Irish party-feuds still are; and I, for one, am not prepared to see the scenes characteristic of Derry enacted all over Ireland.

No, it must not be. Having laid our hands to a noble undertaking, let us not draw back from it. What some of the most powerful English kings failed to achieve by arms, what some of the wisest English ministers failed to achieve by a despotic statecraft, what all the rebel chiefs and agitators that have arisen in Ireland could never have achieved by violence, it has been reserved for our own age to accomplish by constitutional legislation. One more labour remains, for we have yet to determine whether State influence or Church influence shall control Irish education, and then let Ireland have the rest which she needs so much.

We read in Scripture of a glorious temple raised, without noise, from materials ready hewn and moulded, “wherein neither hammer nor axe nor any tool was heard while it was building.” Thus have been reared all the most durable monuments of human statesmanship, and thus it must be with the new Ireland of which the foundations, let us hope, are now firmly laid. Agitation has done its work, legislative redress has well-nigh done its work; the rest must and will be effected by the slow and noiseless processes of national growth. Every fresh advance made by Irish schools and universities, every improvement in Irish agriculture, every development of Irish manufactures, every new bond of social union between Irishmen of different creeds, parties, and classes; all these, I say, are so many instruments for overcoming evil with good, and, though we may not live to see the full result, are even now silently working out the regeneration of Ireland. Let us await the operation of these

healing agencies at least for one generation. Then, and not till then, it will be for Irishmen to choose between the isolation and weakness of Irish Nationality, and a perpetual share in that noble inheritance which Great Britain has earned for them, not less than for Englishmen and Scotchmen, among the great races of mankind.

THE ENGLISH IN IRELAND.¹

January, 1878.

IN undertaking to write an historical work on Ireland, after justifying the policy and idealizing the character of Henry VIII., Mr. Froude has exhibited a very high degree of literary courage. For not entitling this work a history, for not proposing to treat of Ireland as a distinct nation, but only of "the English in Ireland," and for ostensibly limiting himself to a single century, he deserves the credit of having tempered his courage with discretion. It is not too much to say that Ireland, though she has a story of deep and tragical interest, has never realized that unity and continuity of national life which alone can furnish a worthy theme for history. Her annals before the Anglo-Norman Conquest are not only surcharged with mythical elements, but, even where they are comparatively authentic, contain little but wearisome tales of petty wars and social anarchy, which by the year 1172 had well-nigh destroyed every vestige of any civilization which she may have enjoyed in the first age after the introduction of Christianity. Her annals from the Conquest to the end of the seventeenth century, if not to the Union, are simply the annals of a dependency, and the only events worthy of historical record are events which concern the relations of the Irish people with the Anglo-Norman colony and the Government of England. Too many of these events, it must be confessed, are such as Englishmen and Irishmen might be well content to bury in oblivion, were it possible for the biographer of a nation to

¹ This paper is a review of Mr. Froude's "English in Ireland," vol. i., and is reprinted, by permission, from the *Times*.

imitate the kindly reticence which veils the darkest passages of individual shame and suffering. It is not merely the scantiness of historical evidence, but also the conviction that no good purpose would be served by reviving the fearful memories of Irish rebellions and massacres, that has left us without any narrative, at once complete and trustworthy, of English rule in Ireland before the Union. Even the few standard authorities on various branches of the subject are little studied by English readers. The dust that lies upon library editions of Giraldus Cambrensis, Holingshed, Ware, Cox, and Leland, is very seldom disturbed, while scores of so-called Irish histories, by patriotic Irish antiquaries of modern times, are generally and justly suspected in this country, disfigured as they are by a credulity and partisanship which represent the antithesis of the historical spirit. The list of original treatises on Ireland which can be consulted with confidence and profit is, indeed, extremely brief. The famous discourse of Spenser on the "Present State of Ireland;" the "Discovery" of Sir John Davies, with his letter to Robert, Earl of Salisbury; the "Political Anatomy" and other Irish tracts of Sir William Petty; the letters of Primate Boulter; and some brilliant pamphlets of Swift and Berkeley—such are, perhaps, the most valuable contemporary sources of information upon the affairs of Ireland during three centuries after the Reformation, accessible to ordinary students, who cannot afford time for ransacking State papers. Those who care to push their researches further may doubtless find inexhaustible materials for curious speculation; but it is more than doubtful whether they will find much that is useful either for the practical guidance of statesmen in the present generation or for the permanent instruction of mankind.

Mr. Froude, then, judged wisely in declining to write either a history of Ireland, or a history of the English in Ireland, from the Conquest downwards. Unhappily, his wisdom and self-restraint appear to have ended there. Following the example of Macaulay, he prepares his readers for a minute description of Ireland in the eighteenth century by a preliminary sketch of the period between Henry II. and James I., followed by more detailed notices of the great insurrection of 1641 and the era of

the Revolution. In the first chapter he lays down frankly and dogmatically the principles upon which he is about to discharge one of the heaviest responsibilities which an historian of eminence ever deliberately incurred. Those principles, we regret to say, are utterly and inevitably destructive of his claim to impartiality and justice, for they are neither more nor less than Mr. Carlyle's favourite paradoxes, stated in their very nakedest form. Mr. Froude starts from the broad assertion that nations, like individuals, have no right to liberty or self-government, except so far as they have the might to maintain it, and this doctrine he repeats with almost wearisome iteration, and applies with infinite variety of rhetoric to every national wrong of which Irishmen had ever reason to complain. The Normans, according to him, "were a military aristocracy, whose peculiar mission was to govern men. . . The Irish, when the Normans *took charge of them*, were, with the exception of the clergy, scarcely better than a mob of armed savages," though he is candid enough to allow that "they had some human traits." The Normans were, in fact, "born rulers of men," and "their right to govern lay in their capability of governing and the need of the Irish to be governed." The key-note thus struck vibrates in every succeeding page of the volume, and there is scarcely a paragraph in it which does not betray the imperious arrogance of a conquering race towards an inferior and subject population. It is needless to point out that no historical review of the relations between England and Ireland, conceived and executed in this spirit, can be otherwise than intolerably offensive to Irishmen; but it is right to protest against its being accepted as a true expression of English opinion. We venture to say, once for all, on behalf of those Englishmen who may read Mr. Froude's work on Ireland, that not one in a hundred will endorse the cardinal principles by which it must stand or fall. The masterly chapter of Hallam on "the Constitution of Ireland," and the essay of Professor Goldwin Smith on Irish history and Irish character, though both written from a thoroughly English point of view, may be searched in vain for any trace of the Machiavellian theories which colour Mr. Froude's whole argument. "What is to be censured," observes

Mr. Hallam, "and what Henry and his successors were at all hazards bound to refuse, was the violation of their faith to the Irish princes, in sharing among these insatiable barons their ancient territories, which, setting aside the wrong of the first invasion, were protected by their homage and submission, and sometimes by positive conventions." Yet neither Mr. Hallam nor Mr. Goldwin Smith is more indulgent than Mr. Froude to the political vices which made the Conquest possible, but deprived Ireland of the benefits which it might have produced.

It is not the less, but the more, necessary to insist on this, because Mr. Froude's perverse and immoral apology for his country may obscure a plain historical truth which has not received due attention. The real ground of defence which Englishmen may fairly take up against wholesale charges of oppression is, not that "England" was justified in domineering over "Ireland" for centuries, but that England never domineered over Ireland, or even governed Ireland, at all, until a comparatively recent period. The handful of warlike barons who conquered Ireland with the aid of their own retainers, and without the knowledge of their king, were not Englishmen but Normans, whose great-grandfathers had conquered England itself but a hundred years before, and their descendants continued to rule, not Ireland, but as many of the Irish people as they could force to obey them, under royal authority, it is true, but without advice or support from the English legislature. After the departure of John, no English king except Richard II. ever set foot in Ireland until William III. went over to win the battle of the Boyne, and Richard II.'s army was the only considerable body of English troops ever seen in Ireland until the reign of Henry VIII. The great invasion of Edward Bruce, which Mr. Froude omits to mention in his rapid but effective summary, was repulsed at Dundalk by John de Bermingham at the head of a force composed of Anglo-Norman chiefs and their feudal dependants. Mr. Froude truly remarks that "in contrast with the age that succeeded it, the century of Irish life which followed the Conquest was comparatively humane and rational," but neither the merit of the one nor the blame of the other belongs to the English nation as a whole. With the Barons' War and

the creation of a Parliament on their hands, with Scotland to humble and Wales to subjugate, with a struggle for the dominion of France prolonged for three generations, with a disputed succession at home, and a civil war in which the best English blood flowed more freely than it had flowed at Hastings, the nobles of England had little time or thought to spare for sympathy with their Irish cousins, who soon became *Hibernis ipsis Hiberniores*, and, as Spenser tells us, had aggravated the barbarous customs of Ireland by refinements of outrage peculiar to feudalism. Probably the Black Prince had never heard of the Parliament of Kilkenny, held under his brother Lionel, where it was made treason for an Englishman to adopt the Brehon Laws, or intermarry with the Irish. Assuredly those who fell under the walls of Orleans or on the deadly field of Towton cared nothing for the ascendancy of Butlers or Geraldines, and would have learnt with perfect indifference that, instead of nominally embracing all Ireland, the English Pale was limited to the four counties of Dublin, Meath, Kildare, and Louth. As for the people of England, they had not yet succeeded in winning their own social and political independence, much less were they capable of meditating aggressions on the independence of the people of Ireland. In short, if Ireland was grossly misgoverned, as she certainly was, during the fourteenth and fifteenth centuries, she was misgoverned, according to purely "Irish ideas," by her own native chieftains beyond the Pale, who had long ceased to respect the king's writ; and, within the Pale, by an Anglo-Irish legislature, which neither regarded the interests nor represented the sentiment of Englishmen. While the natural leaders of the English colony in Ireland were slaughtering each other in England on behalf of the Red and White Roses, "Ireland," as Mr. Froude says, without much exaggeration, "was in full and ample possession of all the privileges of Home Rule." Though Poyning's Act soon afterwards destroyed the legislative independence of the colony, even Henry VII. was glad to intrust the royal authority to the Earl of Kildare, the head of the Geraldine clan, and one of the most turbulent and lawless of "the king's Irish rebels." When Kildare was designated as Lord-deputy, some objector exclaimed, "All Ireland cannot

govern this man!" "Then," replied the king, "this man shall govern all Ireland."

In describing the state of Ireland under the Tudor dynasty, Mr. Froude is on firmer, and to him more familiar, ground. With his broad conclusions on the system of government then initiated we are able on the whole to agree. No one who has any acquaintance with the State papers and literature of that period, relating to Irish affairs, can fail to recognize the earnest desire of English statesmen to raise Ireland to a higher level of civilization, not merely or mainly for the sake of England, but for the sake of Ireland herself. The noble and eloquent discourse of Spenser is but a type of what he calls "divers good plots devised, and wise counsels cast already, about reformation of that realm;" nor are we by any means sure that Spenser's notions of Irish policy are not, in some respects, and especially on the possibility of a fusion between the English and Irish races, more enlightened than those propounded by Mr. Froude. There is no reason to doubt that Henry VIII. was sincere in "disavowing all intentions of depriving the chiefs of their lands, or confiscating their rights for the benefit of Englishmen." Neither he, when he exchanged the title of *Dominus* for that of *Rex Hibernie* on receiving the formal submission of the native Irish lords, nor Elizabeth, when she at last determined to put down Shan O'Neil, contemplated for one moment the sweeping measures of confiscation and settlement which, following each other in four successive waves, transferred almost the whole soil of Ireland into Protestant hands by the end of the seventeenth century. Nevertheless, we are not prepared to join Mr. Froude in excusing the most questionable acts of these monarchs, such as the execution of Kildare's five brothers at Tyburn, because their general ends were good; still less can we assent to his opinion that Elizabeth erred in not imposing the Reformation still more forcibly on the Irish nation. We learn from Cox's "*Hibernia Anglicana*" that King Edward VI. adopted the best method of spreading the Reformation in Ireland, by instructing the Lord-deputy "to propagate the worship of God in the English tongue, and to have the service translated into Irish for those parts of the country which needed it." This beneficent

design was frustrated by his early death; and the same author relates an amusing story, which Mr. Froude has not quoted, of the manner in which a persecution of the Protestants, intended by Queen Mary, was happily averted. It appears that she had signed a commission for this purpose, and delivered it to a Dr. Cole, who carried it with him in a leather box on his journey to Ireland. Having stopped at Chester, where the mayor waited on him, he was imprudent enough to show this box, saying, "Here is a commission that shall lash the heretics of Ireland." The landlady of the house overheard him, and, being a good Protestant, as well as having a Protestant brother in Dublin, took an opportunity of opening the box and abstracting the commission, "placing in lieu thereof a sheet of paper with a pack of cards wrapt up therein, the knave of clubs being faced uppermost." On arriving in Dublin, he presented the box to Lord Fitz-Walter, the Lord-deputy, and the Irish Privy Council, "who causing it to be opened, there was nothing save a pack of cards with the knave of clubs uppermost. . . . Then the Lord-deputy made answer, 'Let us have another commission, and we will shuffle the cards in the meanwhile.' The doctor, being troubled in his mind, went away and returned into England, and, coming to the court, obtained another commission; but, staying for a wind on the waterside, news came to him that the Queen was dead, and thus God preserved the Protestants of Ireland." It is added that Queen Elizabeth was so delighted with this story that she sent for the woman, and gave her a pension of £40 for life.

"With Elizabeth came the beginnings of modern Irish history," and Mr. Froude holds that its course would have been far less disastrous had Elizabeth displayed more vigour, and less regard for economy, in crushing Irish Catholics. We shall not follow him into his account of the vain efforts made to compensate for the legal establishment of the Protestant religion and the Act of Uniformity by a practical toleration of the Catholics. His own view, so far as we can understand it, is that it was perfectly right to secure Protestant ascendancy by law, inasmuch as there would otherwise have been "no Protestants in Ireland at all," and the whole country would have become a stronghold

of the Catholic powers, but that it was an entire mistake to deal so gently with Catholics, and, above all, to abstain from dividing the Church property of the Pale among settlements of Protestants imported from England. Others, who do not believe in the gospel of superior force, may think, on the contrary, that if the Bible and Prayer-book had at once been translated into the "vulgar tongue" of Ireland, and Spenser's proposal for the appointment of a schoolmaster in every parish carried out in Ireland as it was virtually carried out in Scotland, the Irish people would have been more likely to appreciate the blessings of Protestantism without coercion of any kind. At all events, from the moment that religious discord aggravated the old antagonism between Celt and Englishman, Irish rebellions assumed far more formidable proportions and a far more national character. The first of those in Elizabeth's reign was that of Shan O'Neil, in Ulster; the second, was that of the Earl of Desmond, in Munster; the last was that of Tyrone, beginning in Ulster, but afterwards spreading over a great part of Ireland. The rebellion of Desmond, having been suppressed after a desperate contest, which devastated the whole province of Munster, and almost exterminated the Geraldine clan, was followed by the settlement of Munster. The rebellion of Tyrone was suppressed with equal difficulty and carnage, but was not followed by any wholesale forfeitures. This lenity is censured by Mr. Froude in a characteristic passage:—

"The Queen might now, had she so pleased, have insisted on a universal confiscation, or made a profession of Protestantism a condition on which land might be held in fee. The estates of those who had been in rebellion, or had refused conformity, might have been granted to Englishman or Scot, or to any other of the reformed creed whose allegiance could be depended on; and though it might have been hard measure, it would have been in strict conformity with the usage and example of the Catholics themselves. Once more it was decided to try a gentler method—to insist only on the abolition of the traditional tribal rights which bred perennial anarchy; to leave the Catholics in possession of their estates; to make no curious inquiry into their creed; to let them be sheriffs and magistrates; to allow them seats in Parliament, and the same private toleration of their religion which all along they had enjoyed. It was hoped that they would recognize and respect the leniency of their treatment, and that the further assimilation of Ireland to English ways and character might be left to the gradual action of time. Experience was to show that the Irish did not

understand forbearance, that they interpreted lenity into fear, and respected only an authority which they dared not trifle with."

Early in James I.'s reign the Ulster rebellion broke out once more under the joint leadership of Tyrone and Tyrconnell, and from this point Mr. Froude judiciously begins his striking chapter on the insurrection of 1641. We are disposed to concur with him in considering this insurrection the gravest event in Irish history, in tracing it not so much to Catholic fanaticism as to furious resentment provoked by the settlement of Ulster and the administration of Strafford, and in looking upon it as the bitter source of most, if not all, of the calamities which afterwards fell upon Ireland. The settlement of Ulster was the retribution inflicted for the last rebellion of Tyrone and Tyrconnell, a rebellion which, as Spenser had said of all former Irish rebellions, was essentially of aristocratic, and not of democratic, origin. Considering how inveterate had been the anarchy of Ulster under her native chiefs, and how completely forbearance had failed to pacify them; considering that, if we may trust Sir John Davies, innocent tenants and labourers were left undisturbed; and considering also the blessings ultimately conferred by the Anglo-Scotch immigration upon the whole North of Ireland, we are not among those who condemn the settlement of Ulster as indefensible. Mr. Froude may reasonably contend that "if the meaning of government be the protection of the honest and laborious, and the punishment of knaves, not the smallest gainers from the Ulster settlement were the worthy among the Irish themselves, who were saved at last from the intolerable oppression under which they and their fathers from immemorial time had groaned." Nevertheless, it inevitably created a wild and desperate class of "wanderers and cosherers," sons and servants of the dispossessed proprietors, with no occupation but rapine and conspiracy, and with a burning thirst for vengeance. For a while, indeed, Ireland cowered under the commanding eye of Strafford, "that star," as Hallam calls him, "of exceeding brightness, but sinister influence, the willing and able instrument of despotic power." In an extant letter, Strafford himself claims to have "brought the greatest prosperity on these affairs that hath been since the English Conquest,"

and his intimate friend, Sir George Radclyffe, assures us that his supreme aim was national unity, "so as the Irish and English might live together now as one people." But the means which he employed were such as Mr. Froude himself admits to have been too high-handed. While he enforced conformity on the Anglo-Scotch colonists of Ulster on pain of confiscation, he instituted an inquisition into defective titles, which he manipulated to his own purposes by the coercion of juries, and of which the result was that four-fifths of Connaught and large territories in other parts of Ireland were declared to be at the disposal of the Crown. This scheme of "direct and unprovoked spoliation" was frustrated by his fall, and the Irish army which he had collected for the destruction of liberty in England and Scotland was disbanded by order of the English Parliament, but the Irish Government was thereby left almost defenceless, when the concentrated passions of family blood-feuds, religious hatred, and patriotic despair, burst forth into one of the most awful political eruptions recorded in modern history.

Mr. Froude approaches what he regards as "the turning point on which all later controversies between England and Ireland hinge" with a full knowledge of the opposition which he will encounter. It has been the fixed endeavour of Irish Catholic historians to explain away the massacre of 1641, as it has been the fixed endeavour of all Catholic historians to explain away the massacre of St. Bartholomew, or, at least, the Pope's open and demonstrable complicity after the fact with that stupendous crime. Mr. Prendergast, in his *Cromwellian Settlement*, does not scruple to speak of it as an "historical falsehood," though he evidently would have passed a very lenient sentence on his countrymen had he found them guilty of it. "The English," he says, "*whose conscience made them expect such retribution, had often foretold the outburst of injured and outraged humanity. They themselves massacred the Danes ; but the Irish, to use the words of an old divine, have ever lacked gall to supply a wholesome animosity to the eternal enemies and revilers of their name and nation.*" After perusing Mr. Prendergast's work no one is likely to accuse him of a deficiency in this precious quality, and it is perhaps well that he did not publish such passages as this before the

massacre, but at a safe distance of two centuries. As it is, they merely serve to destroy our faith in the "impartiality and candour" which Mr. Froude attributes to him, with a gratuitous and apparently ironical courtesy; for in truth no historians can be more utterly at variance on matters of fact as well as on matters of opinion. Upon the great massacre of 1641, in particular, there can be henceforth no truce between them. According to Mr. Prendergast, the current story of it is a tissue of malicious Protestant inventions, gradually developed, months after its supposed date, to palliate the cruel retaliation which ensued. According to Mr. Froude, it was never doubted by the generation in whose lifetime it was enacted, and has only been doubted since, because the character of the Catholic religion and the Irish race is engaged to deny it. He professes to have diligently searched the "forty volumes of depositions preserved in the library of Trinity College, which tell the tale with perfect distinctness," and which, it may be added, are confirmed by a large mass of contemporary literature. Without having prosecuted the same laborious process of inquiry, we shall not presume to speak with the same unqualified confidence, yet we cannot hesitate to avow the belief, expressed by Hallam, and shared by the most candid of Protestants, that if "the massacre of 1641 was a dream," nothing in history is certain. It is not the positive evidences by which the massacre is proved, but the negative evidences by which some would fain disprove it, that most resemble the stuff that dreams are made of, consisting, as they mainly do, of mere presumptions, and what Hallam terms "scraps of quotation." Moreover, we cannot forget that most of those who affect to dismiss it as a dream have the strongest possible motives for their incredulity, for, unless it was a dream, it was a deed so black and infamous, so deliberately concerted between Romish priests and chiefs of the Irish people, so ruthlessly carried out by Irish Catholics of all classes, and so hard for English Protestants to forgive, that an ardent patriot and faithful son of the Church might well be willing to risk his soul in the attempt to blot out every earthly record of it. More than this we forbear at present to say, nor will our space permit us to give more than a few extracts from Mr. Froude's impressive,

though condensed, account of "scenes which rivalled in carnage the horrors of St. Bartholomew." After discussing the premonitory symptoms of the final outbreak, the division in the councils of its leaders between the Catholic lords of the Pale and the party of Sir Phelim O'Neil, the Parliamentary by-play to be rehearsed over again in 1798, and the failure of the conspiracy to seize Dublin Castle, he thus delineates what occurred in Ulster on and after the 23rd of October, 1641 :—

"On the morning of that fatal Saturday there appeared before the houses of the settlers and their tenants in the six escheated counties gangs of armed Irish, who demanded instant possession, and on being admitted ejected the entire families and stripped most of them to the skin. Many resisted and were killed; many, the young vigorous men especially, who could save their own lives by flight, sought shelter for their women and their little ones in the houses of their Irish neighbours, with whom they had lived in intimacy. The doors of their neighbours were opened in seeming hospitality, but within there were not human beings—not even human savages—but ferocious beasts."

Most of these helpless fugitives were murdered indoors, or betrayed to their pursuers, the exasperation of the rebels being heightened by disappointment at the miscarriage of their enterprise at Dublin and elsewhere. "Sir William Cole saved Enniskillen. Naked men, flying for their lives, carried the alarm to Derry, Coleraine, and Carrickfergus, and the inhabitants had time to close their gates," but misery and pestilence soon made havoc among the crowds that flocked into these cities of refuge, pursued by furious bands, "hunting them like starved jackals."

"Murder when the spirit of it has gone abroad becomes a passion; and man grows more ferocious than a beast of prey. Savage creatures of both sexes, yelping in chorus and brandishing their skenes: boys practising their young hands in stabbing and torturing the English children—these were the scenes which were witnessed daily through all parts of Ulster. The fury extended even to the farm stock, and sheep and oxen were slaughtered, not for food, but in the blindness of rage. The distinction between Scots and English soon vanished. Religion was made the new dividing line, and the one crime was to be a Protestant. The escorts proved in most cases but gangs of assassins. In the wildest of remembered winters the shivering fugitives were goaded along the highways stark naked and foodless. If some, happier than the rest, found a few rags to throw about them, they were torn instantly away. If others, in natural modesty, twisted straw ropes round their waists, the straw was set on fire. When the tired little ones dropped behind, the escort lashed the parents forward, and the children were left to die. One witness, Adam Clover, of Slonory, in Cavan,

swore that he saw a woman who had been thus deserted, set upon by three Irish women, who stripped her naked in frost and snow. She fell in labour under their hands, and she and her child died. Many were buried alive. Those who died first were never buried, but were left to be devoured by dogs, and rats, and swine. Some were driven into rivers and drowned, some hanged, some mutilated, some ripped with knives. The priests told the people 'that the Protestants were worse than dogs, they were devils and served the devil, and the killing of them was a meritorious act.' One wretch stabbed a woman with a baby in her arms, and left the infant in mockery on its dead mother's breast, bidding it 'Suck, English bastard.' The insurgents swore in their madness they would not leave English man, woman, or child alive in Ireland. They flung babies into boiling pots, or tossed them into the ditches to the pigs. They put out grown men's eyes, turned them adrift to wander, and starved them to death. Two cowboys boasted of having murdered thirty women and children, and a lad was heard swearing that his arm was so tired with killing that he could scarce lift his hand above his head."

Mr. Froude flatly contradicts and rends to pieces the assertion that Protestants shed the first blood early in November, when the garrison of Carrickfergus is reported to have killed three thousand Catholics on Island Magee. His counter statement, which purports to be founded on minute research, is that not three thousand, but only thirty persons were put to death "in the frenzy of provoked rage," not in November, but "on January 9, 1642, when the cries of perishing men and women were going up from every corner of Ulster," and wholesale murders had just been perpetrated in the immediate neighbourhood. "When," exclaims Mr. Froude :—

"When will the Irish Catholics, when will the Roman Catholics learn that wounds will never heal which are skinned with lying? Not till they have done penance, all of them, by frank confession and humiliation—the Irish for their crimes in their own island—the Catholics generally for their yet greater crimes throughout the civilized world—can the past be forgotten, and their lawful claims on the conscience of mankind be equitably considered."

We have but one remark to make upon this passionate apostrophe, which is no unfair specimen of the *animus* which pervades the volume. Whether or not Mr. Froude's indignant denunciation of a whole Church and a whole people be well or ill founded, it must be condemned as historically indefensible, since history is ever judicial in her attitude, and morally indefensible, since morality sanctions nothing which is calculated to

do far more harm than good. As Protestants and as Englishmen, we may believe—nay more, we may possibly be right in believing—that we are not as other men are; but, as writers or students of history, we are bound to abstain from indiscriminate and Pharisaical indications of contempt for our neighbours, especially if they happen to be our fellow-subjects. If the sin of blood-guiltiness lies heavy at the door of Catholic Ireland, Protestant England has something, too, of which to repent; and few of our countrymen, we trust, will accept Mr. Froude's repeated and defiant allegation that the massacre of 1641 constitutes "the explanation and the defence of the subsequent treatment of Ireland," including the Penal Laws. Such advocacy is more damaging than all the calumnies of Irish Catholic historians; it would assuredly have been repudiated by William III., Mr. Froude himself being witness; and we shall not easily be convinced that Cromwell, though he avenged the slaughter of 1641 with an unsparing hand, ever contemplated the perpetuation of his own policy to a remote posterity.

If we pass lightly over the stormy and confused period which intervened between the massacre and the settlement of Ireland under William III., it is assuredly not because it lacked stirring events, but rather because it is utterly hopeless to epitomize these events with any approach to accuracy. To have succeeded in bringing something like order out of the chaos in which Irish affairs during the last years of Charles I. have long been involved, is no mean proof of Mr. Froude's narrative skill; and there are many who will gain from his pages, for the first time, a tolerably clear idea of the so-called "Restoration Settlement." It was the misfortune of Ireland that a civil war broke out in England before the insurrection of 1641 was put down, and that it thenceforth became the interest of Charles I., with his wonted duplicity, to intrigue with the less guilty promoters of that insurrection. When Cromwell landed, on the 15th of August, 1649, he found Ormond, the royalist governor of Ireland, just defeated by Colonel Jones, a Parliamentary officer, and Owen Roe O'Neil, the chosen representative of the native Irish, quarrelling with the Kilkenny Council, set up by the Catholic

lords of the Pale. By October 9, Drogheda and Wexford had been taken, and Ireland lay virtually at his mercy. Before the end of 1652 all resistance had ceased, and during the remaining years of the Protectorate the country was pacified—first under the rule of four commissioners, and then under that of Henry Cromwell—as it had never been pacified before. Those who desire to master all the details of the Cromwellian settlement will, of course, study the exhaustive work of Mr. Prendergast; those who must needs content themselves with a general outline may profitably consult the fifth and sixth sections of Mr. Froude's second chapter. He is too sincere an admirer of Cromwell's thorough-going measures to have any temptation to extenuate them, and it is probably this point to which he alludes when he declares that he has no dispute with Mr. Prendergast on matters of fact. The following passage sufficiently conveys the impression which he seeks to leave on the minds of his readers:—

“Such was the Cromwellian settlement of Ireland—unrelentingly severe on the authors of the chronic misery under which the island had so long lain paralyzed, infinitely favourable to her future prospects if the wound, at last cauterized, was never allowed to re-open. The owners of the soil had forfeited their rights and were deprived of them. The religion out of which the worst of their crimes had originated was proscribed. These two things accomplished, Ireland was identified with England, and made a full participator in every advantage which England possessed. The separate Parliament—fruitful mother of so much mischief—was swept away. The Irish representatives came to Westminster, and the two countries were made one under Cromwell's administration. For the first and last time, the sole object of the English Government was to further, to the utmost possible degree, the advancement and prosperity of Irish industry. Even the expatriation to Connaught was conceived and carried out in no ill will to those who were removed. ‘No one,’ says Clarendon, ‘was exported who had not forfeited his life by rebellion; and it was the only way to save them from utter destruction, for such was their humour that no English man or woman could stray a mile from their homes but they were found murdered or stripped by the Irish, who lay in wait for them; so that the soldiers, if they had been allowed to remain in the country, would have risen upon them and totally destroyed them.’”

In short, Cromwell was a ruler of Ireland after Mr. Froude's own heart, sternly enforcing the duties of property by turning out *en masse* all the proprietors who had failed to perform them, while he protected the “earth tillers” in their industry, consist-

ently acting on the principle that Ireland must be Protestantized and Anglicized, and, with this view, shutting up all the Catholics and Celts in Connaught. Nor is it possible to gainsay the marvellous success of Cromwell's method, if success is to be measured by the prosperity of "Ireland" as a country, and not of the Irish people. It has never been seriously denied that Cromwell's settlers, aided by a liberal commercial policy, did more in a few years to develop agricultural and manufacturing resources than would have been done in generations by the native Irish. But the production of a given result, whether material or moral, is surely not the supreme object of Government. The supreme object of Government is to raise a given population to the highest level of happiness and virtue which it is capable of attaining, and this object Cromwell scarcely attempted to realize. He aimed, as Mr. Froude tells us, at making Connaught a second Wales, and establishing an Anglo-Scotch proprietary over all the other provinces, with the Irishry for hewers of wood and drawers of water. Doubtless, had this plan been consistently followed out by his successors, we might have been spared the Irish difficulty of later times; but the question is whether the English race could or would have undertaken, before God and man, the responsibility of crushing out the national life of the Irish race. The really statesmanlike features of Cromwell's Government were not his deportations of Irish landowners to Connaught and the West Indies, or his proscription of Catholic worship, but his vigorous maintenance of order and suppression of the Irish Parliament. Had the work thus commenced a century and a half before the Union been allowed a few years longer to consolidate itself, the healing influence of time might have proved effectual, there might have been no Jacobite reaction or Tyrconnell Parliament or Revolution Settlement, and remedial legislation, instead of the Penal Laws, might have dated from the reign of William III.

But an age of temporizing and feeble administration set in once more. The Irish Parliament was reconstructed, the Irish Episcopal Church was re-established, and the Acts of Settlement and Explanation, though a necessary consequence of the Restoration, disturbed the new land system founded by Cromwell, and

with it the sense of security in the agricultural classes. In recapitulating the final results of the rebellion, Sir William Petty computes that whereas before 1641 at least two-thirds of all the good land in Ireland had belonged to "the Irish" and one-third to "the English," these proportions had been reversed by Christmas, 1672, the Irish Catholics now owning less than one-third of the whole. He remarks, however, that, of those who pretended innocence, seven out of eight had their claims allowed and recovered their estates, although not one in twenty was really innocent. It was Protestant Nonconformists, rather than Catholics, who became the objects of suspicion and oppression under the restored monarchy, the Penal Laws against the latter being suspended, while many of the former were driven to emigrate from Ireland. It was Protestants, too, who chiefly suffered by the Navigation Act, which destroyed the shipping interest of Ireland, and was the precursor of those nefarious statutes against her woollen trade, extinguished by Strafford, but revived by Cromwell. At last a violent Catholic reaction set in, and was actively encouraged by James II., too worthily represented by the unscrupulous Tyrconnell. Civil war soon raged again in Ireland, and while Derry and Enniskillen were defending themselves gallantly against James's armies, a Parliament convened in Dublin by Tyrconnell passed a series of vindictive measures, to which Mr. Froude points as the "legitimate fruit" of a conciliatory policy :—

"Every one who held an estate under the Acts of Settlement was dispossessed. The old proprietors were reinstated in their inheritance, and made the happy owners of the wealth which had accumulated there. The ejected colonists were to receive compensation when they could get it. The Irish Catholics were thus restored to all which they had lost by the Rebellion of 1641. There remained to be recovered the forfeitures from the Elizabethan wars, and the six counties of the Ulster settlement. The process taken upon these was as complete as it was summary. Almost all the leading Protestants in Ireland were comprehended by name in one sweeping act of attainder. Two thousand six hundred landowners, commencing with the Archbishop of Dublin and the Duke of Ormond, were declared guilty of adherence to the Prince of Orange, and to have forfeited their estates by treason. Two months' respite only was allowed to such of them as were still in Ireland to present themselves in Dublin and take their trial. Each member of the House of Commons gave in a list of his Protestant neighbours, and guilt was assumed in the absence of proof of innocence.

The habitual absentees were struck out, because, as residing in England or Scotland under the usurpation, and not having returned to Ireland to defend their natural sovereign, their treason stood confessed. Those who had fled since the disturbances betrayed a consciousness of guilt, and were to be accounted guilty till they cleared themselves. The conditions of 1652 were reversed. Then all Catholics were held responsible for the rebellion of 1641; now all Protestants were partisans of the Prince of Orange. The question at issue was whether England had or had not a right to govern Ireland, and the right depended on the relative strength of the two countries. If the Irish could succeed in driving the invaders out by force, history would see only legitimate retribution in the proceedings of James's Parliament. Another Act swept away the personal property, goods, chattels, stock, debts, bonds, arrears of rent of every person who was in arms against King James, or who, by the previous statutes, was declared to have forfeited his real estate. Schools and colleges were transferred to Catholic management; the churches and the Church property were given back to Catholic bishops and priests. Poyning's Act was repealed, and Ireland was declared independent; while, in harmony with the language which James had ingeniously used to advance Romanism behind principles which were abjured in every Catholic country in Europe, laws interfering with liberty of conscience were declared repealed. Liberty of conscience might be safely conceded in a country where, if the present measures could be maintained, no Protestant was likely to remain."

The graphic pen of Macaulay has made the Irish campaign of William III. familiar as household words to English readers, and Mr. Froude modestly forbears to dwell at length on the siege of Derry, or the battles of the Boyne, Athlone, and Aghrim. On the other hand, he enters fully into the vexed question arising out of the celebrated Articles of Limerick. One of these Articles purported to guarantee Irish Catholics the same rights and privileges as they enjoyed in the reign of Charles II.; another purported to exempt officers and soldiers in arms under King James's commission from the penalty of confiscation and other civil disabilities. The first was clearly violated by the subsequent Penal Laws, the second was observed and solemnly ratified by the English Parliament, so far as it concerned the officers and soldiers therein designated. But it appears that, as originally drawn, this Article included all persons under the protection of King James's troops in six counties, and William III. bore witness that a clause thus extending its operation was omitted by a mere oversight. In spite of Mr. Froude's scepticism, his testimony must, we think, be taken as conclusive;

but the King himself could not have made, and neither Ginckell nor the Lords Justices pretended to make, an unconditional compact. What they promised was that they would use their best endeavours to procure a confirmation of the whole Treaty from the Irish Parliament, and the sequel proved that in so promising they had miscalculated the real temper of that body, now composed of Protestants. In truth, Irish Protestants were at last minded to "make a final end" of Romanism, and Mr. Froude severely censures William for a lenity, proceeding, he holds, from sheer ignorance of Irish character, which checked and crippled their intentions. The Irish Celts, he submits, had shown themselves utterly untrustworthy and unruly, equally incapable of defending their independence with the sword, and of living peaceably under the sway of others. The Romish clergy had repaid toleration with the basest ingratitude, not once only, but again and again, being the instigators of every rebellion since the Reformation, and ever plotting secretly against the English throne and nation. It would have been true wisdom, and true mercy, in his judgment, to have recognized these permanent and irremediable facts as the only sound basis of legislation for Ireland, and he sighs over the weakness of William III. in letting slip a fairer opportunity than was offered to Cromwell of "making Ireland, without real injustice, a Protestant country." A short passage which closes his first book embodies his own conception of what ought to have been done at that supreme crisis in the fortunes of Ireland, and forms a somewhat ominous prelude to Book II., which begins with "The Opening of the Penal Era."

"Certain principles, easily defined, had they been steadily acted on at the close of the civil war, would have made by this time the woes and the wrongs of Ireland a thing of long-forgotten history. A complete subjugation of the native faction untrammelled by articles of capitulation. The resolute exclusion of a Catholic hierarchy, and stringent laws, stringently enforced, against the introduction of priests from abroad. Entire toleration of all Protestant communities, and an effective system of national education. Sharp penalties against absentees; a legislative union of England and Ireland; the abolition of the Irish Parliament, the separate Government, and the separate Bars; and a complete naturalization of all classes of Irish and English citizens. How England on all these points, treating Ireland as a conquered country which she had no longer

occasion to fear, and might therefore safely misuse, deliberately left undone what she ought to have done—refused the Union when Ireland asked for it, destroyed Irish manufactures, ruined her trade, incurred the odium of penal laws while destroying their efficacy, demoralized the entire people, and at last, by the most ingenious complication of mismanagement, exasperated Protestant and Catholic, Saxon colonist and indigenous Celt, into a common revolt, will be told in the following pages.”

The second, third, and fourth books of Mr. Froude's unfinished work imperfectly cover the reign of William III. after the capitulation of Limerick, the reigns of Anne, George I. and George II., and the first seven years of George III. This period has been generally regarded, and not without good reason, as the very worst and gloomiest in the history of the English in Ireland. In that brilliant historical forecast which Macaulay appends to his narrative of the Irish war in 1691, he speaks of Ireland as lying in a state of abject prostration for more than a century. There was peace, indeed, and three full generations passed away without any experience of civil war or confiscation, but this was only because “the domination of the colonists was complete, and the native population was tranquil with the ghastly tranquillity of exhaustion and despair.” The impression left by Mr. Froude's elaborate delineation of the political intrigues, social anarchy, and almost universal corruption which characterized the “Penal Era” is at least equally melancholy, and is rather enhanced by his persistent defence of the principle on which the Popery Laws were founded. In spite of these laws, and in spite of the ruinous and iniquitous restrictions imposed by the British legislature on Irish trade, the condition of the lower classes was probably not more pitiable—nay, it could not be more pitiable—during the deadly calm of the eighteenth century than during the frightful storms of the seventeenth. It is humiliating enough to confess that it was not less pitiable, and that, while population increased, the Irish peasants of Swift's and Berkeley's time continued to be sunk in the same barbarism and squalid misery which had shocked the consciences of Spenser and Petty. As for the upper and middle classes, it is difficult to avoid the conclusion that a constant and progressive degeneracy in virtue had kept pace with political degradation,

and that in the reign of George III. Ireland was morally less capable of self-government than in the reign of Charles II.

There are few important landmarks in the period now to be traversed, and Mr. Froude's readers will not be greatly to blame if they rarely stop to pause in glancing over the first and second chapters of Book II. The Parliamentary history of Ireland between the departure and death of William III. is singularly confused and uninteresting. The king's leaning, as is well known, was entirely towards moderation and toleration, but the Irish Parliament was henceforward the organ of the Established Church, and the Established Church was for giving no quarter either to Papists or to Nonconformists. Before long a serious antagonism sprang up between the legislatures of Ireland and this country. "Where England was tolerant, Ireland was severe. Where England was most jealous and susceptible, Ireland, impregnated with Jacobitism, was suspiciously lenient." For instance, the English Parliament, on a memorable occasion, upheld one of the covenants in the Articles of Limerick, but the Irish Parliament, having at first scouted the proposal to confirm those Articles at all, afterwards evinced a strong desire to insert the additional clause, which had been left out in the Bill sent from England on purpose to remove its objections. The division of forfeited land among favourites of the king, subsequently reversed by the Resumption Act, was another source of angry dissension, which culminated in the rejection by the Irish Lords of the Bill "for the security of His Majesty's person," framed in consequence of the Catholic plot in 1695 for the murder of King William. "To this unlucky vote," says Mr. Froude, "is to be attributed the consent of England to the measures which immediately followed for the destruction of the Irish woollen manufactures." These measures, which constitute the main, if not the only, tenable ground of the indictment laid by Irishmen against the English nation, as distinct from the English Government, are stigmatized by Mr. Froude with deserved severity. The contempt which he manifests for the enlightenment of English merchants and manufacturers is simply wasted, seeing that all the world then shared their "illusion" that Protection is good economy; but it is impossible to reprobate too

indignantly the cruel and selfish design, which they did not attempt to disguise, of impoverishing Ireland for the benefit of England. The various steps by which this design was carried out, till it was partially defeated by smuggling, are very clearly traced by Mr. Froude, and we have not a word to say in excuse of those English politicians who thus sacrificed "a better guarantee against future trouble in Ireland than a hundred Acts of Parliament :"—

"No spirit could have more effectually killed the genius of Popery and Jacobitism, or could more surely have provided that Ireland should never again be a burden on the English exchequer, than the growth of trade and manufacture there. The practical intelligence, the fixed and orderly habits, the class of persons who would have been attracted over to make their homes where land was cheap, and waited only for labour and capital to be as rich and fair as their own English counties, these things would have formed the links of an invisible chain, which could never have been broken, to bind the two islands into one."

After the death of William III., "thoughtful Irishmen began to look back regretfully on one feature of the Protector's policy"—a feature which Sir William Petty had the sagacity to appreciate,—"and earnestly to desire that it might be revived." The first attempt at legislative union emanated from Ireland soon after the publication of Molyneux's bold protest against the obligation to obey English statutes, but it found little favour in England, and an address from the Commons of Ireland imploring the British Government to apply the only remedy for the evils under which Ireland was groaning met with the coldest possible response from the Ministers of Queen Anne. The evidence which Mr. Froude has collected on this subject will be new to most Englishmen, and certainly shows that, with all their religious bigotry, the Protestant Irish High Churchmen, who then monopolized political power in Ireland, understood the wants of their countrymen better than either Whig or Tory statesmen in England. The guilt of the Penal Laws must be shared about equally between the Irish and English Government, and Mr. Froude appears to be successful in bringing home to the English Privy Council, both the original conception of the notorious Act "to prevent the further growth of Popery," and the subsequent introduction of amendments rendering it more

vexatious—especially one by which the English Test Act was parenthetically foisted in for the repression of Irish Nonconformists. He is not equally successful in enabling us to understand why the English Privy Council, on the eve of a Jacobite reaction, should have thus been seized with a sudden access of zeal for the suppression of Irish Popery, or why the Anglican party in Ireland, so bitterly jealous of the Presbyterians, should have waxed more and more hostile to the Catholics, as the Catholics became less and less capable of resistance. However, the fact remains that, whereas the Penal Laws of William III. were said to have been evaded, an Act designed to place Catholics under the most rigorous civil disabilities was passed in 1704, and, having proved less effective than had been hoped, was strengthened by a second Act in 1709. The monstrous provisions of these Acts have often been set forth in detail, but it has long been well known that loop-holes were found in many of them, and that natural equity, not unmixed with less worthy motives, greatly mitigated their practical application. The Irish Catholics were not driven out, as the French Huguenots had been driven out, by an active persecution, which left them no option between apostasy and expatriation. Many of the nobility and gentry, it is true, chose to serve in foreign armies, and recruits, under the name of Wild Geese, were constantly shipped off from the bays of Cork and Kerry. But those who stayed at home were seldom molested, and, even if they did not affect conversion to Protestantism, contrived to hold land by the secret intervention of Protestant trustees. Far be it from us to extenuate the enormity of a persecuting code, which degraded its victims the more the less conscious they were of degradation, and was only tolerable in so far as it was clandestinely infringed. Still, it is a proper subject of historical reflection that Irish Catholics, who had repaid the indulgence extended to them under James I. and Charles I. by a murderous revolt, and had so grievously abused their short hour of triumph under James II., should have borne these galling chains so tamely, however strongly we may deprecate Mr. Froude's inference that Irish nature is more amenable to fear than to kindness.

It is impossible to study the events of this period, otherwise

so disheartening, without being struck by the honest, though often futile, efforts of Irish Viceroy's to moderate between English and Irish prejudices. Lord Capel skilfully overcame a Parliamentary crisis provoked by William III.'s misconception of Irish sentiment; Lord Wharton, though he supported the Popery Laws, clearly saw and pointed out the necessity of uniting the Protestant interest by a liberal policy towards Nonconformists; the Duke of Shrewsbury loudly protested against the extension to Ireland of Bolingbroke's Schism Act; the Duke of Grafton vainly warned Sir Robert Walpole against forcing Wood's halfpence on Ireland, and he, as well as the Duke of Bolton, earnestly advocated the Tillage Bill for encouraging Irish agriculture against the miserably selfish objections of the English Government. Upon the whole, it is more than probable that Ireland in the eighteenth century would have fared better if she had been governed for a while like India, as a mere province, without a parliament of her own and without interference from that of Great Britain. Indeed, her parliamentary history during this period, if history it can be called, is dreary in the extreme. After the recall of the Duke of Grafton in 1724, Mr. Froude himself fairly abandons the attempt to relate it continuously, and lapses into a series of essays on various phases of Irish politics and society. If we are disposed to blame him at all, it is rather for not having adopted this method somewhat earlier, and for having given too much space to matters of trivial importance. It is almost beneath the dignity of history to descant at length on the petty squabbles between the Irish Houses, which fell into the practice of meeting only in alternate years, the intestine divisions of the Anglican Church, the feud between the Castle and the Dublin Corporation, the scandals of Church patronage, and the fluctuations of bigotry among the students of Trinity College. Lively as Mr. Froude's style is, it is really a relief to get out of the stiff Thucydidean groove into an Herodotean digressiveness more in accordance with the promiscuous and disjointed course of Irish affairs. The best and most instructive passages in this volume are those in which the author gathers up, and groups within the compass of a single view, the leading features of some one out of the many scenes or movements which

must enter into our conception of Ireland in the eighteenth century. Such is his bird's-eye retrospect of the conditions which had stereotyped both the character and the lot of the Irish peasantry before the year 1716, when the Tillage Bill was introduced, and of which the force is not spent in the present day :—

“ With their shipping destroyed by the Navigation Act, their woollen manufactures taken from them, their trade in all its branches crippled and confined, the single resource left to those of the Irish who still nourished dreams of improving the unfortunate country was agriculture. The soil, at least, was their own—a soil which needed only to be drained, cleared of weeds, and manured, to produce grass crops and corn crops as rich as the best in England. Here was employment for a population three times more numerous than as yet existed. Here was a prospect, if not of commercial wealth, yet of substantial comfort and material abundance. The Irish peasant was indolent. The glorification of idleness, the contempt of work as base and ignoble, had been instilled into him for fifty generations, and was in the granules of his blood. The earth-tillers everywhere had been the drudges of the tribe—wretches too mean for the honourable employments of stealing and murdering ; and of the fruits of their ignominious toil they had been allowed no more by their own chiefs than sufficed to keep them alive. The Elizabethan landlords had been scarcely lighter masters. The peasants sowed the crop for the masters to reap, and it was not till the Puritans broke in upon the pleasant ways of the old oppressors, and, instead of the sword of tyranny, ruled Ireland with a sword of justice, that any labourer could call his work his own. The reign of Charles II., while the Cromwellians were still in the land, was looked back upon in the following century as an island of prosperity in the ocean of general wretchedness. In Charles II.'s time the absentees were few. The huge estates had not yet devoured the smaller allotments, nor the plough and peasant's spade been laid by to rust, while the bogs crept back over the meadows which the Cromwellians had reclaimed. The poor Irish were brought for a generation into the same condition with their fellow labourers in other parts of the world, and they had the same encouragement to industry. But the change was too shortlived to alter a type which had been moulded by centuries of injustice. The Puritan farmers, under the pressure of Jeremy Taylor and his brother bishops, sold their holdings. Tyrconnell and Catholic ascendancy broke up the scattered Protestant establishments, destroyed their stock, and threw the country into a wilderness again. Many never came back to resume their profitless task, and the land jobbing finished the ruin which the war had left incomplete. Whole counties fell into the hands of favourites or speculators ; and the management was left to middlemen, who again pared the peasant to the bone. The trade in butter and salt meat, which England had graciously consented to leave, with the vast profits, of which I shall speak elsewhere, to be made out of wool smuggling, tempted alike landowners and leaseholders to stock meadow and mountain with sheep and black cattle. In 1727 the average size of the farms in the three southern provinces ranged from 800 to 1000 Irish acres. The tenants were forbidden in their leases to break or plough the

soil. The people no longer employed were driven into holes and corners, and eked out a wretched subsistence by potato-gardens, or by keeping starving cattle of their own on the neglected bogs. Their numbers increased, for they married early, and they were no longer liable, as in the old times, to be killed off like dogs in forays. They grew up in compulsory idleness, encouraged once more in their inherited dislike of labour, and inured to wretchedness and hunger; and, on every failure of the potato crop, hundreds of thousands were starving. Of corn very little was grown anywhere in Ireland. It was imported from England, Holland, Italy, and France, but in quantities unequal to any sudden demand. The disgrace of allowing a nation of human beings to subsist under such conditions forced itself at last on the conscience of the Irish Parliament, and though composed of landowners who were tempted as much as others to let their farms on the terms most profitable to them, the House of Commons in 1716 resolved unanimously to make an effort for a general change of system, and to reclaim both people and country by bringing back and stimulating agriculture."

A brighter side of the picture is presented in the first chapter of Book IV., which contains a very interesting memorandum on the first beginnings of popular education in Ireland. If ordinances and statutes could have educated the Irish people, they would have been educated, if not in the reign of Henry VIII., at least in that of Elizabeth. Even in the eighteenth century, when, "by the statute law of Ireland neither Papist nor Presbyterian was permitted to open or teach in any school or college in the four provinces," the Anglican clergy were statutorily required to provide a school in each separate parish. This requirement could not have been fully carried out by a body of men so thinly scattered over Ireland, and living among the native Irish as European settlers might live among savages. In fact, it was scarcely carried out at all, and it must ever be remembered to the credit of the Irish Catholic priesthood, that in the hedge-schools established by them at their own peril the Irish peasantry first tasted of that forbidden tree of which they still claim the exclusive custody. "In the more accessible counties where open defiance was dangerous, they extemporized class teachers under ruined walls or in the dry ditches by the road side, where ragged urchins in the midst of their poverty learnt English and the elements of arithmetic, and even to read and construe *Ovid* and *Virgil*." At last the Protestant gentry were shamed into exertion. By degrees voluntary day schools were founded by individuals, especially in Ulster, and by 1730 an educational

association had been formed, influential enough to petition the Government of Sir Robert Walpole for a charter of incorporation. After three years' delay, the request was granted, and on the 24th of October, 1733, "the long celebrated Charter schools, so fiercely condemned by the Roman Catholic priests, whose worst enemies in fact they were, became part of the institutions of Ireland." The system of instruction was judiciously made to include industrial training, and, at the end of five years' schooling, provided at an incredibly small cost, the children were apprenticed out to farmers, tradesmen, or artizans. Mr. Froude states that "wherever the Charter schools were tried, they carried all before them," and praises the education given in them as "probably the very best ever devised in modern times, eclipsing in its conception the Scotch system, which it was intended to emulate." The only sum contributed towards it from Imperial sources was £1000 a year out of the king's hereditary revenue, but the Irish Parliament granted a subsidy which gradually rose to £6000 a year, large subscriptions flowed in from England and America, and the Charter schools became a powerful civilizing agency by the middle of the century. Mr. Froude reserves for a future volume his opinion on the causes of their ultimate failure, but indicates it beforehand in a passage sufficiently characteristic to deserve quotation :—

"The Charter Society failed partly from the disorganized condition of general Irish society, which spoilt the healthy working of the apprentice system, partly from the spirit of the age, with which, as the century waned, it found itself in too harsh hostility. The catechism and industrial training were too unspiritual to suit the sentiment of revived emotional Christianity, and when the schools, instead of turning out hardworking labourers and artizans, were turned to purposes of soul-saving and propagandist enthusiasm, they came in conflict with modern liberal ideas, and were held to violate the sacred rights of conscience to choose its own religion, and, in its own wisdom, to believe whatever theories about divine things it happens to prefer."

It is almost incredible, and yet it is a certain fact, that an age which produced so thoroughly practical and enlightened an effort of Irish benevolence should have also witnessed the marvellous excesses of Irish lawlessness detailed in Mr. Froude's third book. Speaking of the barbarous habits adopted by English settlers in Ireland, Spenser quaintly exclaims, "Lord !

how quickly doth that country alter men's natures!" and Sir Jonah Barrington, whose *Reminiscences* comprise the best collection of Irish stories hitherto published, takes the wise precaution of warning his readers that anything, however impossible elsewhere, is liable to happen in Ireland. Mr. Froude might well have prefixed this saying as a motto for his two chapters headed respectively "Irish Ideas" and "The Smugglers," which are by far the most amusing, and perhaps not the least instructive, in the entire volume. The capacity of rapid transition from a smile to a scowl, from gentleness to cruelty, from chivalrous fidelity to dastardly treachery, had often been noticed as a peculiarity of Irish temperament, but we doubt whether any previous writer has ever drawn so hideous a picture of the moral deformity which may be developed out of Irish temperament in the idiosyncrasy of a numerous class. The class which Mr. Froude has thus portrayed, as in some degree representative of the nation, was composed of "young gentlemen," mostly the degenerate scions of old Irish proprietors, who form a connecting link between the Rapparees and the duelling squireens of a later age, but seem to have surpassed both in profligacy and heartlessness. It has been said that Whiteboyism, an essentially democratic outbreak provoked by the enclosure of pasture lands, was the origin and type of all agrarian disturbances in Ireland, and Arthur Young tells us, as the result of careful inquiry, that he could discover no trace of Whiteboyism having existed before 1760. Mr. Froude's researches in the Dublin Record Office go far to qualify this impression, and to satisfy us that if the Irish peasantry took the law into their own hands for the first time in 1760, they might have pleaded in palliation of their worst outrages an unbroken series of precedents set by their natural leaders from "the infernal ten years" of rebellion downwards. "Human creatures," says Mr. Froude, "have at various times made devils of themselves, but probably no age, and no part of the world, have produced specimens quite so detestable as these Irish gentlemen. In unmanliness, in cowardice, in ferocity, in a combination of all the qualities most hateful and despicable in man's nature, they had achieved a distinction as yet unmatched. Yet such was the condition of Irish public opinion

that their performances were encouraged by the clergy, and were so much in favour with general society that they were allowed to escape retribution." He adds, in the next paragraph, that Catholic superstition was often found in unholy alliance with their deliberate villainy, and that "a curious anxiety was at times displayed for the soul of some outraged Protestant woman by men whom, unless for the purpose of incurring merited damnation for their unpunished wickedness on earth, it would be difficult to credit with the possession of souls themselves."

However little we may admire the literary incontinence displayed in the use of such unmeasured terms, we cannot, in justice, call them altogether unfounded. The savage vengeance of the Galway "Houghers" was, after all, mainly wreaked upon cattle, and therefore did not amount to inhumanity of the most atrocious kind, but the cases of abduction adduced by Mr. Froude upon the authority of sworn depositions, which he professes to have perused himself, reveal a gregarious brutality among large classes, and those not the lowest classes, of Irish society in the wilder parts of the country, which makes English blood boil after the lapse of more than a century. We forbear to enter further into them, for obvious reasons, but we feel bound to say that, assuming their authenticity, we do not think Mr. Froude has exceeded the duty of an historian in narrating them, as he does, with becoming reticence and delicacy. Happily the stories which immediately follow these are of a less revolting kind, while they equally illustrate that contempt for human life and suffering which contrasts so remarkably in the Irish disposition with a feminine sympathy and desire to please. Those who relish anecdotes of personal daring will not be disappointed by Mr. Froude's spirited account of Captain Newdegate's single-handed defence of his own house against a gang of armed ruffians, or by the romantic story of Morty O'Sullivan, the great smuggling chief of Berehaven, whose character is a compound of Scott's Rob Roy and Dirk Hatteraick. Still more indicative of the utter demoralization engendered by the senseless legislative restraints on legitimate trading is the episode of the Danish East Indiaman wrecked in the Bay of Tralee, whose cargo of silver bullion, though saved from the sea, was afterwards

violently seized and shared by a horde of plunderers, aided by "the Crosbies of Ballyhige," under whose roof it was deposited for safety, and abetted by half the magistrates in the county of Kerry. No abridgment would convey to our readers any adequate notion of all that may be learnt from this story, or from that of the "Bodkin murder," planned and executed with diabolical coolness by members of a family still established and highly respected in the county of Galway. Such things could only have occurred in Ireland before the Union, as Sir Jonah Barrington would say; and though Mr. Froude may be right in regarding them as "the native growth of the soil" rather than as the fruit of oppressive legislation, he cannot justly deny that England, since the Revolution, had made herself mainly responsible for civilizing the Irish people. Unfortunately, he believes in the sword as the one effectual instrument of civilization, and breaks out, ever and anon, after the manner of Carlyle, into diatribes of which the following is a fair specimen:—"Unjust violence, alternating with affected repentance for past oppression, and childish prate about *Irish ideas*; this has been the eternal see-saw in the English administration of the unlucky country. Who but Cromwell has ever tried to rule her by *true ideas*?"

Returning from this seductive excursion into the province of Irish novelists, Mr. Froude makes an attempt to resume the historical thread of his discourse, but this attempt is by no means successful, and we shall not imitate it. There are two facts, however, which throw so much light on the political state of Ireland in the period under review as to demand special attention. The one is the positive fact that Wood's Patent raised a hurricane of disaffection before which Sir Robert Walpole himself found it necessary to retreat from a false position; the other is the negative fact that neither in 1715 nor in 1745 did the cause of the Pretender find any rallying point in Ireland. That a nation which had patiently endured the persecution of its ancient creed, the closing of its ports, the destruction of its staple manufactures, the rejection of measures for the improvement of its agriculture, and the assignment of pensions to Royal mistresses and favourites out of its scanty

revenues, should have apparently threatened rebellion at the bare proposal of a slight depreciation in its copper coinage, is a phenomenon which assuredly calls for investigation. Several considerations may help us to estimate its real significance, and to put us on our guard against Mr. Froude's rather sensational description of what Mr. Goldwin Smith calls "the farcical panic about Wood's halfpence." In the first place, it is tolerably clear that however furious the outcry against the Patent, it was raised, not by the great body of the Irish people, but only by the "Irish interest" within the narrow circle of the ruling caste, and never became a popular watchword, except in Dublin. In the second place, this agitation was sedulously and unscrupulously inflamed by Swift, a man of that robust common sense rarely given to Irishmen, whose genius and energy have dazzled Mr. Froude into placing him among the purest of Irish patriots. In the last place, trivial as the issue was, Irish resistance to English dictation was here, for once, based on firm constitutional grounds, and, therefore, enlisted the support of moderate and sober men, never absolutely wanting in any community, whose influence would otherwise have been thrown into the Government scale. Even after making these allowances, the events recounted by Mr. Froude in the first chapter of his fourth book must be ranked among the many strange portents of Irish political history, but they will not bear the weight of any solid conclusion respecting the tendencies of Irish politics in the early part of the last century.

The passive attitude maintained by the Irish Tories when the Old Pretender set up his standard at Braemar, and, again, when Charles Edward advanced southward to Derby, "has been pleaded," according to Mr. Froude,—

"As an argument to prove the injustice or the folly of the penal laws. We are asked to believe that their devotion to England was proof even against gratuitous cruelty; that twice they let pass an opportunity for achieving their freedom rather than soil their honour with the taint of rebellion. It is true, and it is the most remarkable fact in Irish history, that Ireland did remain on these occasions undisturbed. Even when, later in the century, encouraged by the revolt of the American colonies, the Irish Protestants rose at last and wrenched out of the grasp of the English Parliament the legislative instruments of oppression, by which they had been so long racked and tortured; when the sympathy

between the Irish Nonconformists and the American States was so keen that Paul Jones found a welcome in every Irish harbour that was unoccupied by an English squadron; when English commerce was swept out of St. George's Channel, and the Holyhead passage yachts were searched and plundered by privateers under the American flag, fitted out and manned by Protestant adventurers from Wexford and Dublin, it is true that the staunchest friends which the English Government possessed in the island were the representatives and great grandfathers of the Catholic Irish peasantry to whom America is now the land of promise, and whose dream is a liberated Ireland under the protectorate of the Stars and Stripes. In 1760, when Munster was in agrarian revolt, and the French, striking, as they supposed, at a vulnerable point in England's armour, attempted an invasion there, the minutest scrutiny failed to detect either correspondence or sympathy between Versailles and the Tipperary Whiteboys. In 1745, Irish Catholic bishops were in communication with the Castle, prepared, should any movement be attempted in favour of the Pretender, to give information of it; but the occasion never arose."

Mr. Froude's solution of this historical problem might have been anticipated. Of course, he repudiates the suggestion that penal laws could not have been needed to keep down men who twice let pass so fair an opportunity of rebelling. They did not care to rebel in 1715, he thinks, precisely because they had been soundly beaten into "a good-humoured submissiveness," and "the priests learned to look on England as their protector against the Protestant Parliament." Moreover, the native Catholics had not forgiven the Act of Settlement, or James II.'s cowardly desertion of them, and, "taught by the experience of 1692, preferred that the battles of Ireland should be fought elsewhere." Another and equally pertinent reason is to be found in the constant drain of adventurous spirits into the military service of France and Spain, leaving behind them a male Catholic population which Swift declared to be as insignificant as women and children, though we must not forget that it included popular heroes capable of ruthless murder and abduction. In 1745 all these causes were still in operation, but Mr. Froude dwells with unfeigned gratification on the "one effort of resolution" made by the Irish Parliament, by opportunely passing a new Disarming Act, which the English Cabinet had shrunk from recommending. To this Act, and the replenishment of arsenals throughout Ireland, that country, in Mr. Froude's opinion, "owed the unbroken quiet in the rebellion of

1745, of which, by some absurd irony, the indulgent rule of Lord Chesterfield has gained the exclusive credit." In this sentence, as in almost every chapter of Mr. Froude's work, the cloven foot of Carlyle's political morality is gratuitously obtruded on our view. No true friend of Ireland will deny that she has ever been, and still is, happier and more contented under a strong Government, nor are we concerned to condemn the policy which passed the Disarming Act of 1745. But we do emphatically protest, once more, against the assumption, constantly made by Mr. Froude, that a strong Government, conducted according to "the laws, so far as intellect can discern them, appointed by the Maker of the world," is the one thing needful for Ireland, or any other dependent country; and, further, against the dogmatic assertion that "true liberty means the being governed by just laws." We maintain, on the contrary, that a dependent country like Ireland in the days of Chesterfield specially needs to be governed, as he governed it, not with strength and justice only, but in a conciliatory spirit, and with a view to preparing it for self-government, and we believe the wisdom of this policy to have been attested in the crisis of 1745.

One more instance of Mr. Froude's strange inability to deal fairly with unwelcome certainties is too notable to be overlooked. In the first chapter of Book IV. there is a brief section, of which a sufficient outline is given in the following headings:—"Intended severities against the Irish priests; fiction and fact; the registered and unregistered clergy; uncertain dealings with them by the Government; need of more systematic methods; alteration of the heads of a Bill by the Council; singular character of that alteration; the Bill thrown out in the Irish House of Lords; further efforts in the Viceroyalty of the Duke of Grafton; postponement of the question in England." We now proceed to fill up this outline, in the fewest words possible, with materials borrowed from Mr. Froude's own pages. The "intended severities" consisted of mutilation, the most inhuman and repulsive that can be conceived. The "fiction," accredited not only by Plowden and other Catholic writers but also by some too credulous Protestants, represented that an Irish House of

Commons, with the full approval of the Lord Lieutenant, earnestly recommended the infliction of this penalty, "upon every Catholic clergyman that should be found in the realm;" but that so odious a proposal was rejected with horror by the English Privy Council. The "fact," as verified by Mr. Froude, is that in the year 1719, when a previous law for the registration of priests had become a dead letter, and unregistered priests were fomenting a rebellion throughout Ireland, a committee of the House of Commons drew the heads of a Bill which included a provision for branding all such priests with a hot iron; that in revising this Bill the Irish Privy Council deliberately substituted mutilation for branding, that in this form it was transmitted by the Duke of Bolton, then Lord-lieutenant, to his Government, which sent it back to Ireland "shorn of the grotesque appendage;" and that having passed the Irish House of Commons, it was thrown out by the Irish House of Lords, on a wholly different ground, to be revived, however, in 1723, "without the sensational proposition," and to be ultimately shelved in England, notwithstanding the Duke of Grafton's cordial support. Doubtless the "fact," thus reduced to its true proportions, differs widely from the "fiction," and Mr. Froude has done good service by endeavouring to dissipate a traditional exaggeration of the measure actually projected. At the same time, we confess ourselves quite unable to understand the feelings of a modern historian who can discuss the measure actually projected without any indication of shame or horror, and appears to hold its authors guilty of no worse fault than an excess of zeal.

Mr. Froude's last chapter on the "Progress of Anarchy," is as readable as the rest of his work, but marred by all the chief defects of its predecessors. Opening with a rather pedantic restatement of the author's opinions on the government of dependencies, it closes not a little abruptly with a series of extracts from Lord Chatham's Irish Correspondence, exhibiting everywhere an absence of arrangement, a looseness of thought, and even a slovenliness of typography, which almost justify the conjecture that it is a compilation of notes hastily thrown together before Mr. Froude's departure for America. With his

scorn for the ignoble eighteenth century system of governing Ireland by jobbery and "management," and with his admiration of Chatham's manlier policy, we can sympathize without reserve, but we greatly mistake Chatham's views of statecraft if they at all resembled those of Mr. Froude. His letter to the Duke of Bedford, which "shines out like an exceptional flash of sunlight through the mists and clouds of Irish misgovernment," and which "should have been engraven on the walls of the Vice-regal Cabinet," evinces, it is true, a vigorous determination to uphold "the authority of the King's Government by due course of law," and a capacity of rising far above the official prejudices of Dublin Castle. This letter, as well as another to the Duke of Bedford which Mr. Froude has not cited, shows, moreover, that he was fully aware of the necessity for conciliating all sections of the Protestant interest in Ireland, especially the Presbyterians, and one which he addressed to Lord Shelburne nearly fourteen years later is remarkable for its unqualified recognition of the right asserted by the Irish Parliament to impose a tax upon absentees, without the leave and even against the will of the English Parliament. So far, Chatham's treatment of Irish difficulties was in accordance with Mr. Froude's theory of *ex post facto* legislation, nor are we aware that he ever conceived the idea of emancipating the Catholics, which his son abandoned with bitter regret in deference to the madness of George III. But we may be quite sure that so thoroughly constitutional a statesman as Chatham would have endorsed the maxim which Mr. Froude thinks fit to ridicule as an exploded fallacy—that political liberty is only possessed by those who participate in making the laws under which they are to live—and that, if he could have devoted his mind to Ireland, he would have made it his object to educate the Irish race for the enjoyment of this privilege, instead of looking upon it as inherently "incapable of self-restraint," and therefore destined to be ruled by a master for ever.

It is this utter want of faith, of hope, and even of charity, in his judgment of the Irish people, which cannot but deprive Mr. Froude of their confidence as an historical guide, and will, probably, embolden Irish critics to attack some of his least

assailable positions. If we have been compelled to censure many parts of his work from an English point of view, it is not because we fail to appreciate either its artistic merits or the new light which it throws on several obscure chapters in Irish history. As a review of the leading facts in that history, never before arranged so carefully or with so true an eye to picturesque effect, it possesses a permanent value, and is worthy of the industry that has manifestly been expended on it. As a political treatise—and such it purports to be—it must be condemned with little or no qualification, for the lesson which it teaches and formulates into a creed is exactly that which it is the first duty of statesmen to unlearn. Mr. Froude must surely know that it is wholly and hopelessly impossible to govern Ireland as Cromwell governed her; yet, if he knows this, what are we to think of the reckless dogmatism which tells us, again and again, as with the mocking voice of Mephistopheles, that Ireland can never be governed in any other way? If it were so, indeed—if the experience of seven centuries had proved that Ireland can only prosper by the eternal subjection of Irishmen to a superior race—then it were better that a story with so doleful a moral should not be written at all.

THE LAW AND CUSTOM OF PRIMOGENITURE.¹

1876.

THE right of Primogeniture, the most distinctive feature of the English family system, is partly the creation of law, and partly the growth of custom. It is the growth of custom, so far as it has its origin in the voluntary action of feudal lords in making grants of land to be held by knight-service, and so far as it now depends on the preference given by parents to eldest sons in wills and settlements of property. It is the creation of law, so far as it is the fixed rule of succession to landed estates in case of intestacy; and so far, moreover, as the custom which prevails in wills and settlements has been determined or favoured by the law. The practice of entailing, which is often associated or confounded with the right of Primogeniture, is theoretically quite independent of that right, since it would be as easy and as consistent with legal principles to entail an estate upon the youngest son as to entail it upon the eldest son. Again, the power of settling is theoretically altogether distinct from the power of entailing, since it extends to personality as well as to land, and might be employed to keep land tied up, though entails should be abolished by law. Practically, however, settlements are the medium through which the entailing power is exercised, and form a powerful bulwark of Primogeniture, inasmuch as they enable successive heads of families, owing to it their own position, to secure its maintenance far into the lifetime of an unborn generation.

I. The so-called law of Primogeniture, applicable to in-

¹ Reprinted, by permission, from "Systems of Land-Tenure," published by the Cobden Club.

heritance of land *ab intestato*, is thus stated in "Blackstone's Commentaries":—"That the male issue shall be admitted before the female, and that, when there are two or more males in equal degree, the eldest only shall inherit, but the females altogether." The right of Primogeniture, then, in the descent of land, exclusively belongs to eldest sons, and has no place among daughters. This fact, in itself, has a material bearing on its historical origin. The luminous researches of Sir H. Maine into ancient law tend strongly to support the opinion of Blackstone and other authorities, that we owe this institution to feudal society, not in the earlier, but in the later, stage of its development. "Primogeniture did not belong to the customs which the barbarians practised on their first establishment within the Roman Empire." It was, indeed, directly at variance with the principles of equality which appear to have regulated all the primitive communities whose organization, but lately revealed to historical students, furnishes the key to so many social problems otherwise insoluble. Even the patriarch, though lord of the family possessions, "held them as trustee for his children and kindred." The male children were recognized, both in German and Hindoo jurisprudence, as "co-proprietors with their father, and the endowment of the family could not be parted with, except by the consent of all its members." Still less had the eldest son any advantage over the rest, either in those primeval family groups which held their domains in joint ownership, or under that more advanced system of land tenure, where partitions took place on the death of a parent, according to rules indicated by Tacitus with his usual pregnant brevity: "*Hæredes successorum sui cuique liberi, et nullum testamentum: si liberi non sunt, proximus gradus in possessione, fratres, patrui, avunculi.*" Sir H. Maine, after summing up the evidence on this part of the subject, concludes that "an absolutely equal division of assets among the male children at death is the practice most usual with society at the period when family dependency is in the first stages of disintegration."

This conclusion, mainly founded on the legal history of Germany and India, is further confirmed by the great customary of Ireland, known as the Brehon Code, which not only

adopts the rule of equal division, but extends the right of inheritance to bastard children. It is hardly necessary to state that a like rule, but applying only to legitimate sons, was established by the Anglo-Saxon custom of gavelkind, which still prevails, as of common right, over the greater part of Kent, and in a qualified form, governs the descent of copyhold lands in some other parts of the kingdom. The Athenian law of succession, under the Solonian constitution, was the same in all essential respects with the Anglo-Saxon. All the sons inherited equally, upon the death of their father, and the only privilege reserved to the eldest was that of exercising the first choice in the division. The right of Primogeniture, as Blackstone observes, seems to have been maintained by the Jews alone, among the oldest races whose laws are known to us; and even the Mosaic law assigned no more than a double portion to the eldest son, while the "birthright" of pre-Mosaic times, as appears from the case of Reuben, might be set aside by the father.

It is equally certain that Primogeniture is not derived from Roman law—the real fountain head of so many institutions and ideas once supposed to be indigenous. According to Roman law, "when the succession was *ab intestato*, and the group (of co-heirs) consisted of the children of the deceased, they each took an equal share of the property; nor, though males had at one time some advantages over females, is there the slightest trace of Primogeniture." Intestacy, it is true, was rare among the Romans; but Sir H. Maine has given cogent reasons for believing that Roman wills, so far from being made for the purpose of accumulating property upon one representative of the family, were usually made for the contrary purpose of dividing the inheritance more equitably among all the children, and defeating the rule which excluded sons already emancipated from succession *ab intestato*.

We may assume, then, with as much confidence as is possible in inquiries of this nature, that Primogeniture is essentially a feudal institution. It cannot be traced back to an age preceding feudalism; it was fully established in those countries, and those only, which are known to have adopted the feudal system; and it has been abandoned, for the most part, by those

countries which have undergone a complete de-feudalising process. Moreover, though we are unable to specify the exact mode whereby this innovation was accomplished in the Dark Ages, we are able to account for it completely by the peculiar circumstances of that warlike and chaotic period. "While land," says Adam Smith, "is considered as the means only of subsistence and enjoyment, the natural law of succession divides it, like them, among all the children of the family; . . . but when land was considered as the means, not of subsistence merely, but of power and protection, it was thought better that it should descend undivided to one." Such is the true historical explanation, as it is also the sound economical explanation, of the rise of Primogeniture. In ancient Rome, no less than in ancient Athens, the State was everything and the individual nothing; public rights dwarfed and overshadowed private rights; and family pride, intense as it was, could not indulge the passion of territorial aggrandisement, lest it should encounter the fierce jealousy of the republican spirit. In communities of the Oriental and old German type, different causes produced the same effect; land was regarded as "a means of subsistence" for all the members of a primitive family or village, and the idea of vassals or tenants holding under a lord could scarcely have been conceived. Even when the German tribes first conquered the Roman Empire, there is reason to believe that equality was the general principle of division. Each great chief, however, naturally received a larger share, and, being unable to cultivate the whole of it for himself, granted a part to retainers on conditions of military service. It is from grants of this kind, and from "honorary feuds" to which titles of nobility were attached, that Primogeniture, as a rule of succession, is held by most jurists to have directly sprung. The original grantee of a fief, unlike the owners of "allodial" property, was indebted to no family law for his new possession. He derived it solely from the bounty of his chief, whose interest it was that it should always be held by some person capable of serving in war, as well as of discharging the less definite obligations, in lieu of rent, which afterwards became regular legal incidents of tenure in chivalry. In most instances the eldest son would be

the one most capable, on the father's death, of undertaking his feudal liabilities; but this was not the only reason why Primogeniture gradually superseded joint ownership and equal division. In those wild and unsettled times, it was as necessary for the family as for the lord that it should have one acknowledged head to govern it, one standard round which all its members and dependants could rally, one judgment-seat to which all disputes could be referred. The disorganised state of society compelled a recurrence to something like the patriarchal system of family government; but whereas that system had developed into the rule of equal inheritance, feudalism, under a different order of conditions, became the parent of Primogeniture.

The eldest son, therefore, was invested with his exceptional privileges under the feudal system, not because he was supposed to have any exceptional rights, but rather because he was supposed to be the most eligible for the performance of exceptional duties. He was not, however, invariably preferred; and we know that merit had far more to do with inheritance in the first age of feudalism than it has with succession to estates or titles in our own days. The Crown itself was then, in some degree, elective in every feudal monarchy; and it is more than probable that fiefs, like the chieftainship of Scotch and Irish clans, sometimes descended to younger brothers and sometimes to uncles. When they descended, as they usually did, to eldest sons, they assuredly brought with them far heavier burdens and far more limited rights of proprietorship than we are wont to associate with the position of a landowner. The life of a German baron under the Othos, or of a Norman baron under the Conqueror and his immediate successors, was a life of incessant toil and anxiety, seldom relieved by leisure or enjoyment; and the younger brother who had entered a monastery or turned soldier of fortune had perhaps little cause to envy the lord of several castles, whose revenues, paid in kind, were devoured by hungry and turbulent retainers.

It is impossible to fix the precise year, or even the precise reign, in which Primogeniture was substituted for gavelkind in the Common Law of England. Blackstone, who regards this feature of mature feudalism as introduced by the Conqueror,

points out that, under the so-called laws of Henry I., the eldest son had no pre-eminence beyond the right of appropriating the "capital fee" held by military tenure; and that so late as the reign of Henry II. socage fees continued to be partible among the male children. At all events, the present rule of succession had become almost universal, except in Kent, before the end of the thirteenth century, by which time, also, the custom of entailing, in its most ancient form, was already established. Entails created in this form conferred no indefeasible right of inheritance. When a fee was granted to a man "and the heirs male of his body," it was held that, upon the birth of a son, the grantee might sell the land, or charge it with incumbrances, or forfeit it by treason, so as to bar the interest of his own issue, though, if he did none of these acts, it would descend according to the express terms of the grant. This full liberty of alienation is described by Mr. Neate, in his treatise on the Law of Entail, as characteristic of true feudalism, which denied the son any vested right in the estate so acquired by the father. The famous statute *De Donis* (13 Edward I., cap. 1), by which the succession of the issue, and the ultimate reversion of the donor on failure of issue, were secured against the risk of being defeated by alienation, is viewed by the same author as a legislative encroachment on feudal principles. The entails made under this statute for nearly two hundred years created, in fact, a perpetual series of life-estates, and are stigmatised in a well-known passage of "Blackstone's Commentaries":—"Children grew disobedient when they knew they could not be set aside; farmers were ousted of their leases made by tenants-in-tail; . . . creditors were defrauded of their debts; . . . innumerable latent entails were produced to deprive purchasers of the lands they had fairly bought; . . . and treasons were encouraged, as estates-tail were not liable to forfeiture longer than for the tenant's life." Though it may well be doubted whether the greater part of England was subject to entails under *De Donis*, the fact of such consequences having resulted from them has never been disputed. Accordingly, when the absurd technical device of a common recovery was invented to break these entails in the reign of Edward IV., Parliament took no

steps to counteract it, and in the reign of Henry VIII. expressly authorised a tenant-in-tail to bar his own issue by a proceeding known as a "fine."

It has not been sufficiently realised that during the period between the introduction of these methods for breaking entails and the institution of family settlements in the seventeenth century, the ownership of family property in this country was practically more absolute, and the disposition of it less restricted, than it had been for two centuries before, or than it has since become. Each successive tenant-in-tail, by levying a fine, or suffering a common recovery, was able to convert his estate into a fee-simple, and as the use of life-estates in tying up land had not yet been discovered, the head of a family was usually in this position. The agrarian history of this remarkable period yet remains to be written; but it is impossible not to connect the rapid growth and singular independence of the English gentry and yeomanry under the later Tudors and earlier Stuarts, with the limitation of entails and freedom of alienation which thus characterised it. In course of time, however, family pride, aided by lawyers, contrived new expedients for checking alienation by sale or subdivision by will, and placing the right of Primogeniture on a secure basis. The first of these expedients in logical, if not in chronological, order, was the mere substitution of such words as "first son" or "eldest son" for "heir of his body," in deeds of settlement. The legal effect of this was, that instead of the father taking an estate-tail under the settlement, which he might have forthwith converted into a fee-simple, he took only a life-estate, and had no control over the remainder (whether for life or in tail) given by the same instrument to his eldest son. This idea was developed by conferring, so far as possible, life-estates instead of estates-tail on the whole first generation of persons included in a family settlement; so that, whereas a tenant-in-tail once in possession could not be deprived of his power to become master of the property, the acquisition of this power might be deferred to a second, or even to a later generation. But, for reasons known to lawyers, that object could not have been accomplished effectually without a further expedient

devised by Sir Orlando Bridgman and Sir Geoffrey Palmer during the Civil Wars, and generally adopted after the Restoration. This was the notable contrivance of "trustees to preserve contingent remainders," of which it is enough to say that it protected the interests of tenants-in-tail against the risk of being defeated by the wrongful act of preceding life-tenants. From this epoch, rather than from "Chudleigh's case," which is cited by Lord Bacon, must be dated the modern type of settlement. Still, the principle was maintained that an entail might be cut off by a tenant-in-tail of full age, though it was technically necessary for him, unless in possession, to obtain the concurrence of the person (generally his own father) in whom the immediate freehold was vested. This principle was violated by the Legislature for the first time, as Mr. Neate shows, in the great Act of William IV., which created the "protector of the settlement." Since this Act it has been a positive rule of law, and no longer a mere technical necessity, that, when a tenant-in-tail under a settlement wishes to bar the entail completely, he must obtain the consent of the "protector," that is, in legal phrase, of the person who has the first estate of freehold prior to his own estate-tail.

II. We are now in a position to review the actual operation of Primogeniture in this country, whether under the express terms of settlements and wills, or by virtue of the law prescribing the course of descent on intestacy. Unfortunately, the statistical materials requisite for such a review are still very imperfect. No register of settlements, or of other dealings affecting land, exists as yet for the greater part of England, though such a register is kept in Scotland, and very conflicting estimates have been formed of the proportion which settled bears to unsettled property. Wills, it is true, are preserved, but they do not show the extent of land devised by them; nor is there any means of ascertaining, with any approach to accuracy, how far they are employed to aggravate, and how far to mitigate, the inequality arising from the custom of settling landed estates upon eldest sons. It might have been expected, however, that a complete record of the land devolving annually by descent would be kept for State purposes and public in-

formation. Instead of this, no distinction appears to be drawn, even between land which passes by will and land which passes by settlement, being equally chargeable with succession duty ; while, for a like reason, no separate account is published of land transmitted to heirs by the law of intestacy. A still more extraordinary, not to say disgraceful, cause of the mystery which has so long surrounded our land-system, is the circumstance that, until the present year (1876) there were no official documents showing the number of landowners in Great Britain, and the distribution of the soil among them. With the new "Domesday Book" in our hands, we can ascertain how the soil is actually distributed in every county of England and Wales, but how far the Law and Custom of Primogeniture may have contributed to produce this distribution, remains even now a speculative question. Still there are certain facts which are matters of common notoriety, and others which are within the general cognizance of persons conversant with land, by the light of which it is possible to arrive at some trustworthy conclusions respecting the dominion of Primogeniture over social life in England.

In the first place, it is material to observe that personal property, which is exempt from the law of Primogeniture, is little affected by the custom, save where it is thought necessary to keep up the dignity of a family place. Rich capitalists who do not invest in land, or aspire to found a county family, seldom "make an eldest son," and of those who do indulge this ambition, some prefer to buy a moderate estate for each of their sons. Still more habitually is equal division recognized as the dictate of natural equity by the great body of merchants, tradespeople, and professional men, as well as by the labouring classes throughout Great Britain and Ireland ; in short, by the middle and lower orders of society, "divorced from the soil" in this country, and by the landless members of the upper orders. Nor must it be forgotten that, by English law, ordinary leaseholds, whether they consist of lands or houses, count as personalty, and are distributed as such on intestacy ; whereas money in trust for investment in land counts as realty and falls under the same rule of inheritance. Vast leasehold interests are constantly included in settlements of personalty, and few of

these settlements, whether made on the marriage of a duke's younger son or on the marriage of a shopkeeper, exhibit any bias towards Primogeniture. In most instances, the funds are directed to be invested for the benefit of all the sons and daughters of the marriage equally, though a power is usually reserved to the parents of modifying this distribution by "appointment," at their own discretion. The same course is generally followed by testators possessed of small landed estates purchased with their own earnings, who, for the most part, devise their land to trustees for sale, and direct the proceeds to be divided among their children. In families of the yeoman class, the ordinary practice appears to be that hereditary property should go to the eldest son, but that, in accordance with the Scotch rule of *legitim*, younger children should be compensated, so far as possible, for their disinherison, and that, if burdened with mortgages, the land should be sold for the equal benefit of all. Even the rude wills and settlements drawn up by priests or schoolmasters for Irish peasant farmers, among whom the instincts of proprietorship are cherished in their intensest form, embody the principle of gavelkind and not of Primogeniture. Though often destitute of any legal validity, and purporting to dispose of an interest which has no existence in law, they usually disclose a clear intention to place the younger children on a tolerably equal footing with the eldest son, either by the subdivisions of which Irish landlords complain so much, or by heavy charges on the tenant-right.

It may, therefore, be safely affirmed that Primogeniture, as it prevails in England, has not its root in popular sentiment, or in the sentiment of any large class, except the landed aristocracy and those who are struggling to enter its ranks. By the great majority of this class, embracing the whole nobility, the squires of England, the lairds of Scotland, and the Irish gentry of every degree, Primogeniture is accepted almost as a fundamental law of nature, to which the practice of entails only gives a convenient and effectual expression. Adam Smith remarks that "in Scotland more than one-fifth, perhaps more than one-third, part of the whole lands of the country, are at present supposed to be under strict entail"—that is, entailed

under a system introduced in 1685, which barred alienation far more inexorably than was permitted by the English rule against perpetuities. Mr. McCulloch, writing in 1849, calculated that at least half Scotland was then entailed, though an Act passed in the previous year had already facilitated disentailing by provisions borrowed from the English law. In England, where so much land is in the hands of corporations or trustees for public objects, and where almost all deeds relating to land are in private custody, we cannot venture to speak with so much confidence on this point. Considering, however, that in most counties large estates predominate over small, and that large estates, by the general testimony of the legal profession, are almost always entailed either by will or settlement, while small estates, if hereditary, are very often entailed, there is no rashness in concluding, in accordance with the evidence given before Mr. Pusey's committee, that a much larger area is under settlement than at the free disposal of individual landowners.

It has frequently been asserted that a mere fraction of the land which yearly changes hands on death, is governed by the law of intestacy. There are no adequate means of testing this assertion; but the probability is that it overstates the case. There is scarcely a wealthy or noble family of any considerable antiquity in which the estates have not at some time descended to an heir or coparceners by the effect of this law, and such an event is far more likely to happen in families less guided by the advice of solicitors. What is really true is, that landowners seldom deliberately intend to die intestate, and that most descents by operation of law are the result of negligence or misadventure. A man, perhaps, makes several contradictory wills, all of which prove to be void for want of proper attestation, or by reason of his incompetence; or he makes a good will that does not cover the whole of his property; or, having recently purchased a small freehold, he is just about to devise it, when he is suddenly cut off. The known wishes of an intestate may be carried into effect by arrangement within the family, or an amicable suit in equity, without the public becoming aware of the fact, especially if those wishes should coincide with the course of descent at common law. Several

notable examples of the contrary kind, where the known wishes of the intestate, and the plain requirements of justice, were grievously violated by the law of Primogeniture, have been cited by Mr. Locke King and others. Upon the whole, however, our presumption must be that, whatever may be the indirect influence of that law on the minds of settlers, and testators, its direct influence in promoting the aggregation of land is by no means extensive.

We have next to examine the mode whereby the right of Primogeniture is secured in ordinary settlements of landed property, or, less frequently, in the wills of landed proprietors who have enjoyed an absolute power of disposition. This mode is thus explained in the standard work of Mr. Joshua Williams, on the Law of Real Property:—"In families where the estates are kept up from one generation to another, settlements are made every few years for this purpose; thus, in the event of a marriage, a life-estate merely is given to the husband; the wife has an allowance for pin-money during the marriage, and a rent-charge or annuity by way of jointure for her life, in case she should survive her husband. Subject to this jointure, and to the payment of such sums as may be agreed on for the portions of the daughters and younger sons of the marriage, *the eldest son who may be born of the marriage is made by the settlement tenant-in-tail*. In case of his decease without issue, it is provided that the second son, and then the third, should in like manner be tenant-in-tail; and so on to the others; and in default of sons, the estate is usually given to the daughters; not successively, however, but as 'tenants in common in tail,' with 'cross remainders' in tail. By this means the estate is tied up till some tenant-in-tail attains the age of twenty-one years; when he is able, with the consent of his father, who is tenant for life, to bar the entail with all the remainders. Dominion is thus again acquired over the property, which dominion is usually exercised in a re-settlement on the next generation; and thus the property is preserved in the family. Primogeniture, therefore, as it obtains among the landed gentry of England, is a *custom* only, and not a *right*; though there can be no doubt that the custom has originated in the right which was enjoyed by the eldest son, as heir

to his father, in those days when estates-tail could not be barred."

To complete this explanation, it should be added that almost all modern settlements contain a power of sale, enabling the trustees, with the consent of the tenant in possession, to sell portions or even the whole of the property, and to re-invest the purchase-money in other land. Under these powers, outlying estates, or estates which may have come into the family collaterally, are very commonly sold off, and the produce is either applied in rounding off the central domain, or held upon trust for the same persons as would have received the income of the land, till it is sooner or later absorbed in paying charges which must otherwise have been raised upon the entire property. In default of such powers being inserted in the settlement, the Court of Chancery may direct sales, with the consent of the parties interested; and it may be asserted that with the exception of a very few domains inalienably settled, like Blenheim, on a particular family, no estate in England is literally unsaleable. It should also be remarked that a settlement of the kind described by Mr. Joshua Williams, implies that full control has been acquired over the land before it is executed. For this purpose, most family properties are disentailed in each generation with a view to re-settlement, by the joint act of the life-owner for the time being, as "protector," and of his eldest son, as tenant-in-tail in reversion. The former is actuated by a desire to perpetuate the entail by fresh limitations, to a period as distant as the law permits; and often gains, in the process of re-settlement, the means of discharging his own debts, or making provision for those who have claims upon him. The son, on the other hand, taking a life-estate in lieu of his estate-tail, forfeits the prospect of becoming master of the property on his father's death; but in consideration of this sacrifice, he usually receives an immediate rent-charge by way of allowance; and is placed in a position to marry early.

It is well known that in families which maintain the practice of entailing, the disparity of wealth between the eldest son and younger children is, almost invariably, prodigious. The charge for the portions of younger children, when created by a marriage

settlement, is created at a time when it is quite uncertain how many such children there will be. It is rarely double of the annual rental, and often does not exceed the annual rental; indeed, in the case of very large estates, it may fall very far short of it. In other words, supposing there to be six children, the income of each younger brother or sister from a family property of £5000 a year will consist of the interest on a sum of £1000 or possibly £2000; and even if there were but one such younger child, his income from the property would probably not be more than one-twentieth or one-thirtieth of his elder brother's rental. Nor does this represent the whole difference between their respective shares of the family endowment; for the eldest son, who pays no probate duty, finds a residence and garden at his disposal, which he may either occupy rent-free, or let for his own private advantage. Of course, where a father possesses a large amount of personalty, he may partially redress the balance; and there are exceptionally conscientious landowners who feel it a duty to save out of their own life incomes for younger children. But it is to be feared that accumulations in the Funds are too often employed, not exclusively nor mainly to increase the pittances allotted for portions; but, on the principle of "To him that hath shall be given," to relieve the land of some outstanding incumbrance, and to aid the eldest son in conforming to a conventional standard of dignity. The same imaginary obligation to preserve that degree of state and luxury which is expected of country gentlemen with a certain status and acreage, offers an obstacle to saving, which the majority find insuperable. Besides, nine out of ten men who inherit their estates burdened with charges for their father's widow and younger children, would think it Quixotic to lay by out of their available income, as men of business would do, for the benefit of their own younger children. Hence the proverbial slenderness of a younger son's fortune in families which have a "place," and especially in those which have a title, to be kept up. As for the daughters, their rank is apt to be reckoned as a substantive part of their fortunes; and not only are their marriage portions infinitely smaller than would be considered proper in families of equal affluence in the

mercantile class, but it is not unfrequently provided that, unless they have children, their property shall ultimately revert to their eldest brother.

To say that Primogeniture, thus organized, has a direct tendency to prevent the dispersion of land, is only to say that it fulfils the purpose for which it was instituted. It is hardly less evident that it must have the further effect of promoting the aggregation of land in a small and constantly decreasing number of hands. The periodical renewal of entails is intended to secure, and does secure, ancestral properties against the risk of being broken up; and, practically, they very seldom come into the market, except as a consequence of scandalous waste or gambling on the part of successive life-owners. The typical English family estate is that which, like Sir Roger de Coverley's, neither waxes nor wanes in the course of generations, and there are still many such estates in counties remote from London. But there is nothing to check the cumulative augmentation of ancestral properties by new purchases of land, which is the darling passion of so many proprietors. There is always some *angulus iste* to be annexed and brought within the park palings or the ring-fence on the first good opportunity; and scarcely a day passes without some yeoman of ancient lineage being erased from the roll of landowners by the competition of his more powerful neighbour. Not that any tyranny or unfair dealing is involved in this process of aggrandisement, which is the consequence of economical laws quite as simple as that of natural selection in the animal creation. The yeoman sells his patrimony, either because he has ruined himself by drinking or improvidence, or because he finds that by turning it into money he can largely improve his income and the future expectations of his family. The nobleman or squire buys it at a price which is not commercially remunerative, either to prevent its being covered with buildings, or because it lies conveniently for his own agricultural designs, or because he wants to extend his influence in the county; for one or all of which reasons it is worth more to him than to any one else. It is known in some parts of the country that it is utterly vain to bid against the great territorial lord of the district, whose agent is instructed to

buy up all properties for sale, regardless of expense. In other parts of the country, men who have made their fortunes in trade are equally covetous of land, which for them is the one sure passport to social consideration, and equally anxious to keep it together by entails. Thus by the normal operation of supply and demand large estates are perpetually swallowing up small estates, while, by a suspension of that operation through the law and custom of Primogeniture, they are themselves preserved, to a great extent, from dissolution. On the other hand, it must not be forgotten that a counter-tendency, no less natural and legitimate, partly neutralizes this gravitation of smaller towards larger aggregates of land. The enormous rise in the value of all sites within easy reach of great towns sometimes offers to great landowners an inducement to sell which they cannot resist. In this way, under the powers of sale already mentioned, distant and detached portions of great estates are frequently passing in large blocks into the hands of new landlords, generally of the mercantile class, or are bought up by land-jobbers and sold, in petty blocks, to retired tradesmen. At the same time, the acquisition of minute plots by the working classes has been facilitated of late by the agency of freehold land societies, originally established for political objects, and would doubtless prevail to a much greater extent but for the exorbitance of law-charges on small purchases of land.

In default of authoritative statistics, the loosest and vaguest conjectures were long current respecting the division of ownership caused by these divergent tendencies. It was confidently stated, for instance, that, whereas in the latter part of the last century this country was divided among 200,000 landowners, it had come to be divided among no more than 30,000. No proof was thought necessary to support the former assertion; the latter was supported by a proof which, on examination, turned out to be perfectly worthless. In the Occupation Returns of the Census for 1861, only 30,766 persons described themselves as land-proprietors, and these figures were most persistently quoted as official evidence on the subject, in the face of the patent fact that above half of the whole number were females. The probable explanation of this circumstance is, that women owning land

feel a pride in recording their ownership ; whereas thousands of male landowners returned themselves as peers, members of Parliament, bankers, merchants, or private gentlemen. At all events, the mere existence of so palpable a flaw in the return utterly destroyed its value for the purposes of statistical argument. Equally reckless assertions were made in support of the contrary opinion, and until the present year (1876) it was regarded as open to doubt whether the whole body of English landowners, properly so called, amounted to 80,000 or to 800,000.

These doubts are at last set at rest. It is true, the Return lately issued by the Local Government Board purports to be no more than "proximately accurate," and a very cursory inspection suffices to disclose numerous errors of detail, which might have been avoided by more careful revision. Great and inevitable difficulties were found to beset the definition of ownership, and one of these difficulties had to be solved by treating as owners all holders of leases for more than 99 years or for lives, with a right of renewal, while other leaseholders were excluded. Moreover, the Return does not cover the Metropolis ; and since it is based on lists separately prepared for each county and each rating-district, it must be taken as subject to large deduction for double entries. Nevertheless, its general results, translated into round numbers, may be accepted as conclusive for the purpose of our present inquiry. They exhibit a gross total of 972,836 freehold properties, which probably represents a net total of above 900,000 freeholders in England and Wales. But of these so-called properties, no less than 708,289 are plots of less than one acre, while 269,547 consist of one acre and upwards. Considering how large a proportion of gardens and grounds forming part of business premises exceed one acre in extent, it would certainly have been convenient if some higher limit, not less than five acres, had been fixed as the minimum area of a *bonâ fide* landed property. However, the voluminous tables here set forth contain ample materials for a more complete analysis than is furnished in the official summary, and some of their more important revelations have already been made public.* It

* See the elaborate statistics published in the *Spectator* of February 12, February 19, and March 4, 1876. These statistics, having been tested by an independent

appears that although nearly a million persons may own the sites of their own homesteads, 42,524 is the extreme number of properties above 100 acres each, the number of their owners being considerably less; that nearly one-eighth of all the enclosed land in England and Wales is in the hands of 100 owners; that nearly one-sixth is in the hands of less than 280 owners; and that above one-fourth is in the hands of 710 owners. Nor is this all; for it must not be forgotten that among the dukes and other great noblemen who head this territorial roll, there are several who also derive a vast rental from Scotland, Ireland, or the Metropolis, whereas among the nominal proprietors below one acre there is an indefinite number of mere faggot-voters.

A close investigation of the returns for single counties fully bears out these conclusions, and places the inequalities of landed proprietorship in a still more striking light. Take, for instance, Northumberland and Nottinghamshire, which stand next to each other in alphabetical order, but differ widely from each other in the character of their population. In Northumberland, the number of owners below one acre is stated at 10,086, but they own no more than 1424 acres between them, so that each possesses, on an average, less than one-seventh of an acre. In Nottinghamshire, 9891 petty landowners rule over 1266 acres between them, possessing, on an average, about one-eighth of an acre apiece. If we now look at the higher end of the scale, the contrast is startling. Nearly three-fifths of Northumberland is in the hands of forty-four proprietors, nearly half is in the hands of twenty-six proprietors, and far more than one-seventh is in the hands of one proprietor, the Duke of Northumberland, who has also landed estates in other counties. In Nottinghamshire, again, nearly two-fifths of the whole acreage belongs to fourteen

examination of the figures, seem to be substantially correct. A further analysis published in the *Times* of April 7, 1876, shows three proprietors owning above 100,000 acres, two between 80,000 and 100,000, two between 70,000 and 80,000, three between 60,000 and 70,000, nine between 50,000 and 60,000, eight between 40,000 and 50,000, twenty-eight between 30,000 and 40,000, and forty-five between 20,000 and 30,000. It also states that "874 owners hold 9,367,133 acres, 2,689 owners hold 14,896,324 acres, 10,207 owners hold 22,013,208 acres, 42,524 owners hold 28,840,550 acres."

proprietors, and above one-fourth to five proprietors. If the division of landed property over the rest of England and Wales corresponded with the division of landed property in Northumberland and Nottinghamshire, one-half of the whole country would be in the hands of about 1000 proprietors, and these proprietors, by virtue of their family connections and social ascendancy, would exercise a power far more than commensurate with their acreage.

The inference must be that Primogeniture, operating for many generations, has reduced the landed aristocracy of England and Wales to a body even smaller than had been commonly supposed, but that in those classes which do not maintain the custom of Primogeniture, landed property is broken up into a multitude of small parcels. The owners of such parcels are, for the most part, not yeomen, but shopkeepers and artisans, too humble and too dependent for their livelihood on urban trade and industry to fill any perceptible space in the rural economy of this country. That economy is so familiar to all of us that we scarcely recognize the peculiar characteristics of it, which foreigners notice as unique in modern Europe. To an Englishman born and bred in the country, it appears the natural order of things, if not the fixed ordinance of Providence, that in each parish there should be a dominant resident landowner, called a squire, unless he should chance to be a peer, invested with an authority over its inhabitants, which, as Mr. Neate contends, "the Norman lords, in the fulness of their power," never had the right of exercising. This potentate, who, luckily for his dependants, is usually a kind-hearted and tolerably educated gentleman, concentrates in himself a variety of rights and prerogatives, which, in the aggregate, amount to little short of patriarchal sovereignty. The clergyman, who is by far the greatest man in the parish next to himself, is usually his nominee, and often his kinsman. The farmers, who are almost the only employers of labour besides himself, are his tenants-at-will, and, possibly, his debtors. The petty tradespeople of the village community rent under him, and, if they did not, might be crushed by his displeasure at any moment. The labourers, of course, live in his cottages, unless, before the Union Charge-

ability Act, he should have managed to keep them on his neighbour's estate ; but this is by no means his only hold upon them. They are absolutely at his mercy for the privilege of hiring allotments at an "accommodation" rent ; they sometimes work on the home farm, and are glad to get jobs from his bailiff, especially in the winter ; they look to him for advice in worldly matters, as they would consult the parson in spiritual matters ; they believe that his good word could procure them any favour or advancement for their children on which they may set their hearts, and they know that his frown may bring ruin upon them and theirs. Nothing passes in the parish without being reported to him. If a girl should go wrong, or a young man should consort with poachers, or a stranger of doubtful repute should be admitted as a lodger, the squire is sure to hear of it, and his decree, so far as his labourers and cottage tenants are concerned, is as good as law. He is, in fact, the local representative of the law itself, and, as a magistrate, has often the means of legally enforcing the policy which, as landlord, he may have adopted. Add to all this the influence which he may and ought to acquire as the leading supporter and manager of the parish school, as the most liberal subscriber to parochial charities, as the patron of village games and the dispenser of village treats, not to speak of the motherly services which may be rendered by his wife, or the boyish fellowship which may grow up between the youth of the village and the young gentlemen at the Hall, and it is difficult to imagine a position of greater real power and responsibility. Yet even this does not exhaust the special advantages and prerogatives attached to the position of an English country gentleman. Until very lately, he alone was lawfully eligible to a seat in Parliament, and even now his class, which may be said to engross the Upper House, predominates conspicuously in the Lower. By this class the whole machinery of county taxation, county government, and county judicature, is regulated and worked. In those members of it who may be magistrates is vested *ex-officio* a right of taking part in poor-law administration ; in their gift is a great variety of lucrative county offices, and the wealthiest magnate of the greatest manufacturing town is "nobody in the county" until he shall have secured their good

opinion. That powers so vast and so arbitrary have not been more frequently abused, is an honour to our national character ; nor can we reflect without some feeling of pride on the admirable manner in which the "duties of property" are acknowledged and discharged on thousands of English estates. But this must not lead us to idealize this form of rural economy as our forefathers idealized the British Constitution, to ignore the grave defects and anomalies inherent in it, or lightly to dismiss the experience of other nations as inapplicable to our social condition.

III. The Reports on Land Tenure drawn up for the Foreign Office in the years 1869-70, by Her Majesty's representatives in the principal countries of Europe and the United States of America, contain a mine of precious materials on foreign land systems. Though specially directed to points bearing directly on the objects of the Irish Land Bill, they include a large mass of evidence on such questions as the descent of landed property on intestacy, and the general tendency of various codes to favour the accumulation or dispersion of land. A few extracts from the results thus obtained may be of some value in illustrating an inquiry into the law and custom of Primogeniture in England.

In France, as all economists are aware, "the land is chiefly occupied by small proprietors, who form the great majority throughout the country," so that of some 7,500,000 proprietors, about 5,000,000 are estimated to average six acres each, while only 50,000 average 600 acres. This *morcellement* is the direct and foreseen consequence of the partible succession enforced by the Code Napoléon, under which all children inherit the bulk of their father's property equally, without distinction of age or sex, a testator with one child being allowed to dispose of half, a testator with two children of one-third only, and a testator with three children of one quarter. The dismemberment of estates thus produced is progressive. "With some rare exceptions, all the great properties have been gradually broken up, and even the first and second classes" (averaging 600 and 60 acres respectively) "are fast merging into the third." Volumes of controversy have not exhausted the arguments either for or against the French law of inheritance, and it is instructive to

remark that, whereas it used to be attacked on the ground that it stimulated the increase of population to a frightful extent, it is now attacked on the ground that it keeps the population almost stationary. In France itself, if we may trust the Report, "the prevalent public opinion as to the advantages or disadvantages of the tenure of land by small proprietors is decidedly that it has been advantageous to the production of the soil, and has tended to the improvement of the material condition of the agricultural population." It is believed, moreover, that subdivision "conduces to political as well as social order, because the greater the number of the proprietors, the greater is the guarantee for the respect of property, and the less likely are the masses to nourish revolutionary and subversive designs." The reporter, Mr. Sackville West, appears to share these views, but he is careful to express his concurrence in M. Lavergne's opinion that *morcellement* has now reached the limit of safety, and that "an unlimited partition of the small properties as they already exist would be productive of serious evil."

The elaborate Report on land tenure in Prussia and the North German Confederation, by Mr. Harriß Gastrell, attests the same preponderance of public opinion in favour of small proprietorship, which is encouraged by law. "In cases of intestacy the law divides all property, including land, in certain proportions, among widow and children; or equally amongst the children, if there be no widow," and no disposition can deprive the "natural heirs" of their claim to a fixed allotment, sometimes amounting to as much as two-thirds of the whole. Though subject to these limitations, "the custom of making a will is almost universal," but "the restrictions on land by settlements and the like are much less than in England." The consequence is, that in the entire province of Prussia, out of about 185,000 freehold estates, rather more than half do not exceed twenty acres in extent.

"Wurtemberg is remarkable as the country where subdivision of land is carried to the greatest extreme," containing, as it does, some 280,000 peasant owners, with less than five acres each, and about 160,000 proprietors of estates above five acres. Upon intestacy, the land is equally divided among all the

children, male and female. The father, however, seems to be allowed full liberty of disposition over the property, so long as a certain moderate portion defined by law (*pflicht-theil*) is reserved for each child. On the smaller peasant farms, "when, in accordance with the will of the father, one child becomes owner of all the paternal land, an estimate is formed on a footing rather favourable to him, and he compensates the brothers and sisters by equal sums of money. The daughters, however, are more frequently on their marriage allotted an equal share of land; and, as the husband is probably the proprietor of a piece of land elsewhere in the commune, the intersection and subdivision of the land goes on increasing." On the larger peasant farms, the custom of Primogeniture has encroached still further on that of equal division. Here, the eldest son commonly succeeds to the whole property, "often in the father's lifetime. When the parent is incapacitated by age from managing his farm, he retires to a small cottage, generally on the property, and receives from the son in possession contributions towards his support both in money and kind. The other children receive a sum of money calculated according to the size of the property and the number of children, but which, in any case, falls far short of the sum which they would receive, if the property were equally divided, or even were the law of *pflicht-theil* acted on. They have, however, their home there until they establish themselves independently or take service on another property." Mr. Phipps, who gives this account of the Wurtemberg land system, adds that political economists of that country are now "of opinion that small proprietors, who complete their means of livelihood by industrial pursuits, are the most desirable class to encourage, whereas formerly agriculture on a large scale was considered the most profitable."

In Bavaria, where the land is very much subdivided, Mr. Fenton attests the general prevalence of a custom very similar to that which characterizes the larger peasant farms in Wurtemberg. Except in the Bavarian Palatinate, where the Code Napoléon is in force, the descent and inheritance of land are governed throughout Bavaria by the principles, though not everywhere by the express provisions, of the common law. "A

proprietor is bound to bequeath, at his death, a certain defined portion of his property, to be divided in equal shares among all his legitimate children. That portion must not be less than one-half, if the number of children be five, or more than five; and not less than one-third, if there be four, or less than four, children." Where the property consists of land, and especially if it be a peasant property, the eldest son may, and usually does, retain the whole, paying the rest a pecuniary indemnity for their shares, if the father has not already installed him in possession, as sometimes happens, during his own lifetime. "Amongst that class the almost invariable custom is for the testator to leave the whole of the real property—farmhouse, farm buildings, and land—in the possession of one member of the family, commonly the widow or the eldest son, and that person then becomes responsible to the children for the payment to them of a sum of money corresponding to the value (as ascertained by official appraisement) of their share of the property, the children's share being generally fixed at one-half of the whole, real as well as personal. It is further, a universally understood condition of an arrangement of the nature above described, that the person who remains in possession of the property and becomes its owner, is bound during a certain number of years (after the payment of their shares to all the children) to provide any one or all of them with board and lodging at the homestead, in the event of their falling into distress from sickness, want of employment, etc." In short, the peasant proprietors of Bavaria, who are admitted to be a thriving class, appear to keep up their family estates with as much tenacity as our own landed gentry, but with a jealousy for the rights of younger children which reminds us of the Irish peasant farmers. In the Austrian Empire, on the contrary, the devolution of all property, real and personal, is regulated by the Civil Code, by which "no preference is accorded to eldest sons," nor have sons any advantage over daughters; but "an exception exists in the case of family entails (*majorats*)."

Of course these entails are mainly created on large properties. Whatever be the instrument which constitutes such an entail, Mr. Lytton remarks that it has no legal validity without the special consent of the legislative power.

It is almost superfluous to state that Switzerland is a land of small proprietors, the law of equal division being heartily supported by custom. According to Mr. Mackenzie's report, "the quantity of land usually held by each varies from six to twelve acres, small lots held together, and the larger intersected by other properties," yet, instead of being pauperized by subdivision, the Swiss are proverbial for successful enterprise in trade both at home and abroad. In Belgium, *morcellement* has notoriously been carried, under the Code Napoléon, to a greater extreme than in France itself; so that Mr. Wyndham estimates the average size of estates, deducting woodlands and wastes, at seven acres; and Mr. Grattan cites official statistics which show that four-fifths did not exceed twelve acres. "The dispersion of land is increased by the system which generally prevails at public sales of dividing real estate into small parcels or lots;" otherwise the properties of small families, sold for the purpose of effecting a more convenient distribution among children, would be constantly passing into the hands of rich families. In Holland, as we learn from Mr. Locock's report, "the law of succession requires the division in equal portions, amongst the children or next of kin, of a major part of every inheritance without regard to its nature or origin, and this is naturally calculated to favour to a great extent the division of landed property. But on the other hand, there exists a very prevalent desire with individuals to avoid unnecessarily splitting up the paternal estates. It is a common thing for a farmer, whether proprietor or tenant, to have accumulated before his death sufficient movable property, frequently in the funds, to enable him to assign a portion therefrom to one or another of his children." The policy of the law, however, is rather against family arrangements whereby the eldest son may retain all the land and the younger children may be compensated in money, since it imposes an increased tax on successions thus modified by agreement. In the Hanse Towns, as well as in Schleswig-Holstein, Primogeniture is more countenanced by law; but even where, as in Bremen, the real estate goes to the eldest son on intestacy, the "co-heirs," or younger children, are entitled to be portioned out of it.

In Italy, says Mr. Bonham, "the laws in force tend in every way to favour the dispersion of land," and equal division, without distinction of sex, is the rule of inheritance on intestacy; but a landowner, having children, may leave one-half of his property by will; the other half—*legitima portio*—"cannot be burdened with any conditions by the testator." In Greece and Portugal, the law of intestacy and the restrictions on testamentary disposition are, in all essential respects, the same as in Italy, producing in both countries a large and increasing subdivision of landed property. Mr. Finlay, speaking of the stationary condition of Greek agriculture, observes:—"It is the almost universal rule that each small proprietor possesses a *zevgari*" (or plot requiring two pair of oxen to plough it), "and that each cultivator of national land occupies no more." Mr. Merlin, in his report on Greece, mentions the curious fact that "it is extremely rare for the sons to marry till their sisters are provided for; and this feeling pervades all classes." In Russia, where the land system has been complicated by political and social distinctions between classes, by serfdom, and by the communal organization, Mr. Michell reports that local usage regulates the descent of peasant properties. The law of intestacy for the rest of the community is based on equal division, giving males a preference over females. "There is no general law of Primogeniture, although, in a few great families, estates have been entailed under a special law passed in the reign of the Emperor Nicholas. In 1713 Peter the Great attempted to introduce a general inheritance in fee of the eldest son; but this was so much opposed to the spirit of the Russian landowners, that one of the first acts of Peter II. was to cancel the Ukase of 1713."

Under the land laws of most States in the American Union, an owner in fee-simple has nearly the same power of disposition as he would possess in this country, but the rule of equal division prevails in case of intestacy. The results of this system, and the reason why they differ so widely from those produced by our own, are succinctly described in the following passages of Mr. Ford's report:—"The system of land occupation in the United States of America may be generally described

as by small proprietors. The proprietary class throughout the country is, moreover, rapidly on the increase, whilst that of the tenancy is diminishing, and is principally supplied by immigration. The theory and practice of the country is for every man to own land as soon as possible. The term "landlord" is an obnoxious one. The American people are very averse to being tenants, and are more anxious to be masters of the soil, and are content to own, if nothing else, a small homestead, a mechanic's home, a comfortable dwelling-house in compact towns, with a lot of land of from fifty feet by a hundred feet about it. In the sparsely peopled portions of the country, a tenancy for a term of years may be said to exist only in exceptional cases. Land is so cheap there that every provident man may own land in fee. The possession of land of itself does not bestow on a man, as it does in Europe, a title to consideration; indeed, its possession in large quantities frequently reacts prejudicially to his interests, as attaching to him a taint of aristocracy which is distasteful to the masses of the American people.

"The landowner in the United States has entire freedom to devise his property at will. He can leave it to one or more of his children, or he may leave it to a perfect stranger. In the event of his dying intestate, his real estate is equally divided amongst his children without distinction as to sex, subject, however, to a right of dower to his widow, should there be one. If there are no children or lineal descendants, the property goes to other relatives of the deceased. If the intestate leaves no kindred, his estate escheats to the State in which it is situated. The laws of the different States of the Union regulating the descent and division of landed property on death of owner harmonize to a great extent with each other.

"It may be asserted that the system of land-tenure by small proprietors is regarded in this country with great favour, and that the prevailing public opinion is that the possession of land should be within the reach of the most modest means. A proprietor of land, however small, acquires a stake in the country, and assumes responsibilities which guarantee his discharging faithfully his duties as a citizen. Whilst practically any one man may acquire as much land as he can pay for, yet the whole

tendency and effect of the laws of this country are conducive to dispersion and multitudinous ownership of land. The several States, and the Government, of the United States grant their lands in limited quantities; and under the laws of descent lands descend to the children, irrespective of sex, in equal shares; and the laws of partition provide for a division of the lands into as many parts as there are interests, where it can be done without prejudice. In many European countries the sale and transfer of land are so hampered by legal complications, and entail such heavy expenses, as frequently to discourage such operations. In the United States, on the contrary, the sale and transfer of land are conducted with about the same ease as would be the sale of a watch. Very large quantities of land are seldom held in this country, undivided, by one family for more than one or two generations. It is worthy of remark that in this country the same reluctance is not felt, as in Europe, to parting with family lands."

The conclusion to be drawn from this rapid survey of foreign laws and customs regulating the devolution and settlement of land may be expressed in a very few words. No other nation has adopted in its entirety the English right of Primogeniture—a right which could only have grown up in a thoroughly feudalized society, and could only have been perpetuated in a country where the feudal structure of society has never undergone any violent disturbance. In those states which have remodelled their jurisprudence on the principles of the Code Napoléon, the eldest son is effectually debarred from engrossing the whole landed property of the family. In other states which have developed their law of succession independently, parents are allowed to "make eldest sons," under greater or less restrictions. In no considerable state but our own does the law itself, in default of a will or settlement, constitute the eldest son the sole heir to all the realty, and in no other is the exclusive preference of the first-born, thus consecrated by law, carried to such extreme lengths in family government. It remains to consider whether this unique institution, viewed as a whole, deserves to be still upheld by English statesmen, either by virtue of its intrinsic merits, or by reason of its having become incorporated

into our national character ; and, if not, in what manner it may be proper to modify it by legislative enactment.

IV. In approaching this part of the subject, we must resolutely put aside two lines of reasoning which have done much to obscure it. The first of these is that which starts from the idea that younger sons have certain natural rights, of which they are deprived by the law and custom of Primogeniture. Now, it is impossible to form any definite conception of rights in this sense, except as arising from the personal exertions of those who claim them ; or, at least, from expectations fostered by the law, or the parent, as the case may be. If the Code Napoléon had been introduced into England, and if the existing rule of descent by Primogeniture were afterwards substituted for it, the generation of younger sons affected by the change would have good cause for complaint, unless their interests were expressly reserved. Again, if a father had led his children to count upon an equal division of his property, and were then to accumulate all upon the eldest son, a palpable wrong would be done to all the rest. But the supposed grievance of existing younger sons who receive the small fortunes to which they were born, and have always looked forward, will not bear a moment's investigation. It is in no respect more real than the grievance of those who are born to no fortune at all, and look wistfully at the inherited wealth of the richer classes. Indeed, the cadets of territorial families who are disposed to regard themselves as the victims of injustice, may well reflect that, but for the institution of Primogeniture, those families might perhaps have little or no territory in their possession, but might long since have been merged in the mass of the community. Except where the law steps in, on intestacy, to defeat the known intentions of a father, or a father disappoints the hopes encouraged by himself, to aggrandize an eldest son, it can hardly be said that Primogeniture involves *injustice* to younger children. Whatever injustice it may involve is sustained by society at large, and though society consists of individual members, those of its members who ultimately suffer most by the operation of Primogeniture are certainly not to be found in families which owe their existence to it.

Still more irrelevant are the attacks which have recently been made on Primogeniture from a communistic point of view. Communistic theories of property, if valid at all, are valid not against any particular rule of succession, but against individual proprietorship as such, or against the ample and peculiar rights of English landlords—rights of which no proprietary class is more tenacious than new purchasers. No doubt it is a perfectly intelligible proposition that all the land in the kingdom ought to be “nationalized” and placed under public management, because individual owners cannot be trusted with full dominion over that part of the earth’s surface by which and upon which all natives of England must live, unless they choose to emigrate. It is evident that, apart from all other objections, this doctrine is the very negation of the belief in peasant-proprietorship and “the magic of property,” being, in fact, an essentially urban sentiment, and inevitably destructive to all independence of rural life. Nor can it be said that our experience of corporate administration, in the case of lands held by collegiate, ecclesiastical, and municipal bodies, as well as by trustees of charities, is such as to recommend the substitution of public for private ownership on a much grander scale. At the same time, it is incontestable that land has actually been treated by all governments, not excluding our own, as more within State control, for many purposes, than other kinds of property; and it is possible to conceive circumstances under which it might be expedient to extend State control much further over the soil of these islands. But what has all this to do with the right of Primogeniture? and what consistency is there in a programme which couples the abolition of that right and the adoption of Free Trade in land, with provisions designed to withdraw from the market and consolidate into large municipal domains more and more of the properties which are already supposed to be too few? This is not the place to discuss the moral or economical aspects of these provisions; suffice it to point out that, except so far as they are aimed at overgrown private estates, they have nothing in common with the policy of reforming the law and custom of Primogeniture. This policy assumes the maintenance of private property, and is directed to its more equitable distribution.

among individuals, without contemplating a return to a communal system of ownership, which, if accepted, would supersede all laws of inheritance and powers of disposition. It is the more necessary to insist on this point, because the cause of Primogeniture has been strengthened, and the efforts of its opponents weakened, by the unfounded impression that it cannot be touched without reconstructing our whole law of property, whereas no more is demanded or required than an amendment of one single chapter.

The most familiar, as well as the strongest, arguments in favour of Primogeniture as it exists in England are derived from considerations which must be called, in the largest sense, political. It was as a powerful bulwark of our landed aristocracy that Burke defended it in his "Appeal from the New to the Old Whigs," emphatically declaring that "without question it has a tendency (I think a most happy tendency) to preserve a character of consequence, weight, and *prevalent influence over others*, in the whole body of the landed interest." The Real Property Commissioners appointed in 1828 fully endorsed this opinion in their first Report, which contains a laudation of the settlements then in use as the best means of "preserving families," and as investing the ostensible lord of the soil "with exactly the dominion and power of disposition over it required for the public good." The English law of intestacy is regarded by the Commissioners with equal approbation, since it "appears far better adapted to the constitution and habits of this kingdom than the opposite law of equal partibility, which, in a few generations, would break down the aristocracy of the country, and, by the endless subdivision of the soil, must ultimately be unfavourable to agriculture, and injurious to the best interests of the State." Very similar opinions are expressed by Mr. McCulloch, in combating the well-known *dictum* of Adam Smith, that "nothing can be more contrary to the real interest of a numerous family than a right which, in order to enrich one, beggars all the rest of the family." Mr. McCulloch, indeed, though he condemns the old indestructible Scotch entails, since abolished by law, treats it as a characteristic merit of English Primogeniture that it sustains a high standard of luxury among

country gentlemen, of which the example is not lost upon the mercantile classes.

If we analyze this plea for Primogeniture somewhat more closely, it will be found to resolve itself into several distinct lines of reasoning. In the first place, it is alleged, or rather suggested, that without Primogeniture it would be impossible to maintain an hereditary peerage. The sufficient reply to any such allegation is that an hereditary peerage may be kept up, and is kept up in some Continental States, either by means of *majorats* specially created, or by making certain estates "run" with the titles derived from them, without any general law or custom of Primogeniture. Moreover, unless Primogeniture be defensible on other grounds, as beneficial to the whole community, it would surely be monstrous that it should be imposed on the families of some hundred thousand freeholders—not to speak of those who may be rendered landless by its indirect operation—for the sake of the few hundred families composing the hereditary nobility. In fact, Burke himself, with all his aristocratic bias, was careful not to rest the case on so narrow a ground; and few admirers of Primogeniture would now venture to advocate it in the interest of the Upper House, as distinct from that of the nation at large.

But, secondly, it is urged, and not without great force, that Primogeniture is actually productive of greater benefits, political and social, to English society as a whole than could be expected from a system of more equal partibility. It is better, we are told, for rural England at least, to be paternally governed by a comparatively limited hierarchy of eldest sons, whose successors are usually designated long beforehand, than for estates to become subject to division once in each generation, with the risk of passing into the hands of new purchasers having no ancestral connection with land. It is contended that an heir born to a great position, and trained from his earliest years to make himself worthy of it, acquires habits, and is fortified by motives, which are powerful securities for his future virtue and capacity. This ideal landowner, having been thoroughly instructed in all the manifold duties of property during his father's lifetime, and conscious that a large body of tenants and

dependants look to him for guidance and example, enters upon the management of his estate in a spirit altogether superior to commercial self-interest, prepared to do for it what no mere land-speculator would think of doing, and no small proprietor could afford to do. If he is a religious man, he builds churches in neglected hamlets; if he is an agriculturist, he sinks more in drainage and farm buildings than he will ever live to receive back in rent; if he is a social reformer, he erects model cottages, carries out sanitary improvements, patronizes schools, or devotes himself to bringing forward the most promising youths in the parishes of which he is lord. In all these enterprises, as well as in the unpaid services which he renders on the magisterial bench, on local boards, and in the varied spheres of influence open to resident landlords, he is actuated by no hope of pecuniary reward or even of personal gratification, but rather by that peculiar sense of honour, compounded of public spirit and family pride, which has played so large a part in the history of England. His character, thus developed, exhibits a marked individuality, but it is by no means a one-sided individuality. With education enough to understand the economical and legal questions which he is daily called upon to settle in practice; with leisure enough to follow the course of affairs both at home and abroad; with refinement enough to appreciate art and literature; with energy enough to enjoy a life of constant activity, in which "county business" is relieved by field sports and a laborious summer holiday; with independence enough to smile at official favours or displeasure—the model English country gentleman represents a species which has never been developed in any other country, and the absence of which goes far to account for the failure of local self-government in France. Is it, we are asked, a legitimate object of State policy to promote the gradual extinction of this class, and meanwhile to disorganize the whole structure of family life within it, for the sake of any doubtful advantage that may be gained by a wider distribution of proprietary rights?

Such a landlord as has been described may be taken as the embodiment of the English landed aristocracy, *as it should be*, from the political and social point of view. Possibly an equally

attractive and not less faithful picture might be drawn of a landed democracy, *as it should be*, illustrated by Swiss and American experience. We have not, however, to deal with ideals, but with realities; not with exceptions, however numerous, but with general tendencies. Let it be granted, once more, that a high standard of political and social responsibility is recognized by a very large number of English country gentlemen—the special products, *ex hypothesi*, of Primogeniture; and, further, that an institution so bound up with much that is admirable should not be lightly disturbed. Still, we are bound to inquire whether these results have not been purchased too dear; whether the continued maintenance of Primogeniture in its integrity involves no countervailing evils, and whether a nearer approximation to ancient usage and foreign codes of land-tenure might not conduce to greater stability and greater unity in our body politic.

It is certainly impossible to ignore the grave political danger involved in the simple fact that nearly all the soil of Great Britain, the value of which is so incalculable, and progressively advancing, should belong to a section of the population relatively small, and progressively dwindling. More than twenty years ago, Mr. Porter, a very high authority on economical statistics, arrived at the conclusion that “with scarcely any exception, the revenue drawn in the form of rent has been at least doubled in every part of Great Britain since 1790.” In the period which has since elapsed the same causes have continued to operate with still greater activity. It was stated in a Report issued by Mr. Goschen, as President of the Poor-Law Board, that the annual value of lands, houses, railways, and other property in the United Kingdom assessed to the income tax, under Schedule A, rose from £53,495,875 to £143,872,588 between 1814 and 1868; and this must be exclusive of the immense sums (estimated by Mr. A. Arnold at £100,000,000) received by the landed interest from railway companies, over and above the market price of the land thus sold. From the last Report of the Inland Revenue Office it appears that the assessment of the United Kingdom, under Schedule A, amounted to more than £150,000,000, and that of England and Wales

alone to £122,599,255, in the year 1873-4, and the Commissioners give reasons for believing the real advance in the value of landed property to have been much greater. But it is the less needful to enter minutely into any such calculations, inasmuch as it is not disputed that for many years past the rental of England has been constantly on the increase; while the fact that persons are willing to invest in land at a low present rate of interest is the best proof either that a further increase in its annual value is expected, or that its annual value is no measure of its real worth to a purchaser. In short, the man who buys land buys not only what may pay him so much per cent., but what may give him social position, and power over his tenants and neighbours. It is precisely this which renders the undue concentration of landed property so detrimental to public interest in quiet times, and so perilous to its possessors in times of revolution. We have seen that, whether the aggregate number of English landowners be stated at more than 900,000, or less than 50,000, a very few thousands of them possess more land than all the rest together, having dominion, moreover, over the greater part of London itself, and many of our provincial capitals. Had the legal rights actually possessed by such proprietors as the Marquis of Westminster been strained to the utmost, instead of being exercised for the most part with forbearance and discretion, legislative interference would assuredly have been needed to avert a revolutionary solution of the English land question. Very serious issues, too, have already arisen in England upon which the interests of rural landowners have been ostensibly in antagonism with those of the commercial and industrial classes. Still more serious risks of collision between town and country are foreshadowed by recent events in France, where the millions of peasant proprietors constitute the one great barrier against Communism. Were it possible to imagine a similar crisis occurring in England, it is to be feared that no similar barrier could be presented by the handful of great proprietors, however powerful their existing influence, who have profited so enormously, and with so little effort of their own, by the growing prosperity of the country during the present century.

In the next place, we cannot and must not ignore the less favourable aspect of Primogeniture, in its relation to public life and national energy. Mr. W. L. Newman, in a remarkable essay on the "English Land Laws," speaks of their tendency "to establish in the centre of each family a magnificently fed and coloured drone, the incarnation of wealth and social dignity, the visible end of human endeavour, a sort of great Final Cause, immanent in every family." Without adopting this somewhat invidious conception of the system, we may well ask ourselves whether it is, on the whole, for the public good to encourage the development of a class wholly dependent on birth, and independent of merit, for the command of all that makes life desirable. Berkeley asks—"What right hath an eldest son to the worst education?" and Bacon, after describing a new expedient for defeating the recent legislation against entails, touches in a pregnant sentence the very bottom of this question:—"Therefore, it is worthy of good consideration, whether it be better for the subject and sovereign to have lands secured to men's names and blood by perpetuities, with all the inconveniences above-mentioned, or to be free, with hazard of undoing his house by unthrifty posterity." No doubt Primogeniture creates a "leisure class," but is this an unmixed benefit? "Leisure" may be essential to æsthetic and intellectual culture, but it is the leisure earned by honourable exertion or guaranteed by a discriminating use of endowments, not the leisure inherited as a right attaching to private property. It would be difficult, indeed, to show that our peerage and landed aristocracy, with all their overwhelming advantages, have contributed one-half so much to science, literature, or art, as the rest of the community who have been thrown upon their own labour for the means of making their bread. Even in politics, where eldest sons long enjoyed a precedence that might easily have proved exclusive, younger sons and men of no family at all have more than equalled them in the attainment of great eminence; and it is no absurd opinion that England would have produced a larger number of really illustrious men, if she had abandoned Primogeniture long ago. Were the inheritance of a great name and fortune a security for public virtue, we should expect to find the standard highest

in the most exalted order of our nobility; whereas it is too notorious to need specific demonstration that an exceptional indifference to such motives has of late been manifested by persons of ducal rank. No doubt, these are exceptions, but they are by no means rare exceptions. They are exceptions, moreover, of which Primogeniture must bear the whole discredit, for they are the direct result of settling princely territories upon unborn heirs, of whose capacity and character there is not the smallest presumption. On the other hand, the whole credit of instances, happily more numerous, in which a noble estate is nobly administered, cannot fairly be assigned to Primogeniture. Before we can be assured that society is a clear gainer by the existence of a great landowner, combining every perfection of his type, we must be satisfied that he does more good than all the yeomen whom he displaces, and more than he would have done himself if compelled to win his own position in the world, perhaps struggling, like Warren Hastings, for the redemption of a lost patrimony.

Indeed, the merits so freely claimed for Primogeniture from this point of view, only appear irresistible so long as we leave out of sight those which may be claimed for the alternative. When, for instance, it is urged that no incentive to honourable ambition is so potent as the prospect of founding a family, it is forgotten that, whatever be the force of this incentive, it is exhausted by one individual to the detriment of his descendants. The first bearer of a title may have rendered important services to the State in the attempt to achieve success; but no sooner is success achieved, than an indefinite series of male successors is placed above the operation of the very motives which inspired and ennobled the exertions of their ancestor. Again, when it is contended that Primogeniture keeps up the local settlement of families, which is assumed to be an unmixed benefit, it is entirely forgotten that while it roots the elder branch for the time being in the soil, it uproots all the others. The eldest male in each generation is selected to occupy the family mansion and estates, but the other members of the family are by the same act divorced from the place of their birth, and scattered abroad to seek their living in other parts of England, in the

metropolis, or in the colonies. This dispersion of families, which does not equally prevail in any other class, is, in fact, often represented as one of the blessings incident to Primogeniture. It is by no means uncommon to hear eloquent discourses on the happiness of younger sons in having to start in life without a competence, and especially without a competence in land, by persons to whom it never occurs that, if the heritage of poverty be so enviable, it would not be difficult to devise means whereby it might be shared by eldest sons also.

Equally delusive is the notion that Primogeniture operates as a democratic solvent upon the landed gentry, inasmuch as younger sons, who might otherwise help to form an exclusive aristocracy, are thus constantly thrust down into the plebeian class. The fusion of the upper and middle classes in England, so far as it exists at all, is not the effect of Primogeniture, but of national temperament. In Germany, where titles descend to younger sons, the utmost insolence of family pride is manifested by the poorest scions of nobility; in America, where popular opinion almost enforces the equal division of property, social equality is complete, and younger sons are more industrious than in England. In short, men's habits and bearing are governed rather by early training than by future prospects; and a youth brought up in one of our ducal palaces, though destined to be cut off with a beggarly fortune, is more likely to be an aristocrat in character than if brought up in a frugal home with great expectations.

But these are not the only, or the main, fallacies which beset the social argument in favour of Primogeniture. That argument rests upon the further assumption that entails and settlements are, at least, effectual to give us a resident proprietary capable of discharging the first duty of property, by developing to the utmost the productive energies of the soil. This assumption will scarcely bear examination by the light of every-day experience. Instead of Primogeniture creating a wealthy resident proprietary, it is certain that it produces, and almost demonstrable that it must produce, the very opposite effect. Out of three English proprietors owning above 100,000 acres each, two have properties scattered, respectively, over

eleven counties. Most of our great aristocratic houses possess more than one family place. It is impossible for the head of the family to reside continuously at each ; during the whole London season he is nominally in attendance on the House of Lords, and, unless he is exceptionally conscientious, he easily satisfies himself with a flying visit once a year to his less favoured estates. In short, absenteeism is the inevitable consequence of a system which concentrates landed property in few hands, and, where absenteeism exists, the *raison d'être* of Primogeniture is materially weakened. But this is not all. Entails and settlements provide an ample security against landed property being divided according to the dictates of natural affection, but they provide no adequate security against its remaining practically without a responsible owner during a whole lifetime, or even against its ultimately passing into the hands of strangers. If a duke ruins himself by gambling, and is declared bankrupt, his domains may be managed for the sole benefit of his assignees during half a century, unless he can obtain the concurrence of his eldest son to sell them outright. In this case, the whole inheritance of a family may be converted into money at a stroke by collusion between two of its members, for the exclusive profit of themselves or their creditors, without the semblance of consent on the part of the younger children and junior branches, who are supposed to have a moral, if not a legal, interest in the land thus alienated. It is true that where such things happen—and such things do happen—the farmers and cottagers on the estate usually change masters for the better, and this fact points to what is the inherent weakness of Primogeniture, economically considered. It vests the control of property, wherever it prevails, not in a series of hereditary landowners, but in a series of hereditary life-tenants, or “limited owners,” as they are now called, without the full rights and sense of proprietorship, sometimes heavily embarrassed, and almost always with a standard of unproductive expenditure more than commensurate with their means. Let it be granted that somewhat undue stress has been laid on this particular topic by some opponents of Primogeniture, who measure its economical defects by the whole difference between the actual

produce of England, and that which might be realized if the entire area of the country, including the waste lands, were brought into the very highest state of cultivation. Let it be granted also that ancestral connection may count for something against a superior command of capital available for agricultural improvements, that rents are seldom excessive on settled estates, and that, until the poor in country districts can be raised to greater independence, they might often suffer by the substitution of strictly commercial relations for their present semi-feudal connection with the family on whose property they are settled. Still, we may confidently appeal to persons conversant with the sale of land to confirm the inference deducible from the laws of political economy—viz., that, in the majority of instances, when land comes into the market, it passes from worse into better hands, and that, consequently, so far as Primogeniture artificially obstructs Free Trade in land, and saves the estates of spendthrifts from partition, it works a substantial injury to society. The new purchaser may be comparatively ignorant of country life, but he is not encumbered by rent-charges of indefinite duration, by mortgages contracted to pay off his father's debts, by dynastic traditions of estate-management, by the silly family pride which must needs emulate the state of some richer predecessor, by the passion for political dictation to which the refusal of leases is so frequently due, or by the supposed necessity of satisfying the supposed expectations of the neighbourhood. Having no liabilities of a past generation to discharge, he can make a liberal provision for younger children out of his rental, by way of life insurance or otherwise; and if this should not suffice with such addition as he may be able to make from invested funds, there is nothing to prevent his leaving them portions of the estate, or directing portions to be sold for their benefit. Meanwhile, he is master of his own property, and free to develop its resources without feeling that he is either compromising or unjustly enriching an eldest son.

This brings us back to what may be called the domestic aspect of Primogeniture; that is, to its influence upon the happiness and welfare of the households immediately affected

by it. Apart from the question whether upon other grounds it is expedient, in the interest of the State, to perpetuate a landed aristocracy, we have to consider the question whether the English institution of Primogeniture conduces to family peace and virtuous conduct within that aristocracy. This is a question which has been very fully discussed by Mr. Locke King and Mr. Neate, the latter of whom specially insists on the humiliating and unbecoming position in which the father as life-tenant is placed towards the eldest son, as tenant-in-tail in remainder. "It is a hard thing," he says, "for a father to have to confess and excuse his extravagance to a son, or to justify his desire for a second wife. It is a worse thing for a son to judge of his father's excuses, or to decide virtually, as head of the family, whether it is right that his father should be allowed to marry again." Yet this is but one of the forms in which our system of entails operates to sow discord and undutiful feeling in families. Long before the heir to a great estate emerges from boyhood, he is made aware that his fortune does not depend on his father's will or his own deserts. He soon learns to consider the estate as his, subject only to his father's life-interest, and expects to receive an allowance enabling him to live in idleness, so that a double burden is laid upon the land for the support of two establishments yielding no agricultural return. As the father grows older, and the son's expectation of succeeding becomes nearer and nearer, painful jealousies are very apt to spring up between them, till at last, perhaps, not a lease can be granted or a fall of timber authorized, lest it may prejudice or be represented as prejudicing the reversion. Of course, there are many examples of families owning settled estates, where the father and eldest son work together in harmony, both looking upon themselves as trustees not only for the rest of the family, but for all placed under their control. But it is self-evident that an indefeasible right of succession vested in the eldest son must tend to weaken parental authority, and to facilitate borrowing money upon the security of reversionary interests.

We have already seen that it is fallacious to speak generally of Primogeniture as inflicting injustice upon younger children. It is, however, equally fallacious to describe it as securing to

younger children, regarded individually, a full equivalent for an equal share of the family heritage upon the father's death. In what does this imaginary equivalent consist? Certainly not in anything capable of being reduced to a definite conception, unless it be the enjoyment of a rank determined by that of their elder brother, and of a claim on his influence for their advancement in life, as well as the maintenance at his expense of a country seat where they are welcome and honoured guests. Of these privileges, the two last depend entirely on their remaining on good terms with the head of the family, whose interest naturally centres in his own children rather than in his father's children, and whose residence, however freely thrown open to them, cannot after all be treated as their home. As for the first privilege, it may well be doubted whether rank or status out of proportion to a man's pecuniary means be not an encumbrance rather than a boon. To have acquired, under a parent's roof, habits, tastes, and ideas of style, which cannot be gratified in maturer years without running into debt, has been the ruin of many a promising career. To this cause, more than any other, is traceable the self-imposed celibacy too prevalent among younger sons of good family in the metropolis, and inevitably prejudicial not to morality only, but to steadiness and earnestness in practical work. By this cause more than any other was fostered the shameful jobbery of former days, when the Church, the Army, and the Civil Service were refuges for the privileged destitute, and junior members of the aristocracy were said to rely on the Budget for their ways and means. Now that patronage has been most properly restricted, that capital and mercantile connection is almost essential for success in business, and that even the Bar is becoming more and more dependent on the lower branch of the legal profession, it is very doubtful whether younger sons of county families stand a fair chance in the race of life against young men of the middle class with equal fortunes, more active backing, less sensitive feelings, and a more utilitarian education. If they have no right to complain of a lot which appears very enviable to most of their countrymen, and which only needs exceptional energy to make it so, yet they owe no gratitude to a system

which inverts the natural order of human life, accustoming them to ease and luxury in youth, but offering them no adequate provision either for an early settlement or for an early retirement.

From every point of view, then, we are led to an adverse judgment on the extreme development of Primogeniture established in England by the joint operation of law and custom. It must be condemned, politically, as aggravating the perilous dualism of town and country; as affording the very minimum of constitutional stability to be derived from the conservative instincts of proprietorship; and as giving a very limited body of landlords a preponderance in the State, none the less unreasonable and obnoxious because it is defended on the untenable ground that it is bound up with the existence of the Upper House. It must be condemned, socially, because it helps to stereotype the caste-like organization of English classes "in horizontal layers," setting up in thousands of country parishes a territorial autocracy, which, however benevolently exercised, keeps the farming and labouring population in an abnormal state of dependence on a single landowner, while the rural districts have gradually been deserted by the lesser gentry who helped to bridge over the chasm between rich and poor in ancient times. It must be condemned, economically, because it cramps the free play of economical laws in dealings with land, multiplies the difficulties and cost of transfer, and discourages a far-sighted application of capital to agriculture, either by the landlord, who is usually a mere life-owner, or by the tenant, who seldom holds a lease. It must be condemned, morally, because it holds out to almost every eldest son in what must still be regarded as the governing class the assurance of wealth and power, whether he be worthy of it or not, and subject to no condition but that of surviving his father. Lastly, it must be condemned, in the interest of family government, because it fatally weakens the authority of parents over eldest sons, and introduces a degree of inequality into the relations of children brought up together, which often mars the cordiality of their intercourse in after life.

V. These considerations are amply sufficient to prove the expediency—not to say the necessity—of reforming the institu-

tion of Primogeniture, so far as it depends on law. Upon one principle to be embraced in any such reform, public opinion has long pronounced itself so decisively that it may be taken as already conceded. This principle is the assimilation of real to personal property, in respect of distribution on intestacy. Even the stoutest adherents of Primogeniture, as a custom, are beginning to allow that, in default of a will or settlement, the law should incline to equality, especially as intestacies are more likely to occur in poor than in wealthy families. To what extent a change in the law of succession on intestacy would affect the practice of testators and settlors is a matter of mere speculation, on which it would be rash to speak confidently. Many are of opinion that no legal presumption in favour of equal partition would avail in the least to counteract the rooted propensity of Englishmen, once possessed of land, to found and keep up a family, but that, on the contrary, people who are now content to die intestate would forthwith make wills disinheriting all their children but one. This opinion appears to derive some little weight from the history of landed property in Kent, where a great many estates have been disgavelled, and where it is said that wills are not more favourable to younger sons than in the rest of the island. Others believe that a deliberate reversal of the policy hitherto sanctioned by the Legislature would exert a powerful influence on popular sentiment, and, coupled with the direct operation of the new law, would leave a very sensible impression on the rural economy of England within two or three generations. In support of this belief, it may be urged that, in a vast number of cases, the form of settlements and wills is practically dictated by the solicitors who frame them, and who themselves follow, more or less exactly and more or less consciously, the course prescribed by the law on intestacy. A man informs his solicitor that he knows little of legal phrases, but that he wishes to settle his property strictly in the usual and right manner; upon which the solicitor makes a will, giving all the land to his eldest son, and dividing the personalty, if any, among his widow and children, nearly in accordance with the Statute of Distributions. So close is the correspondence of the custom with the law, that whereas, in default of sons, the law vests

the land in all the daughters and not in the eldest daughter only, the same rule is adopted, with very slight variation, in most wills and settlements of realty. Were the law altered, however, and especially were it altered after a thorough discussion of the whole question, the uniformity of these usages would be effectually broken. Solicitors would feel bound to ask for more precise instructions from their clients; testators and settlors would more fully realize their responsibility; and the dispositions of landed property hitherto embodied in the common forms of conveyances would have to be reconsidered by the light of modern ideas. Here and there an old property would devolve to several children under the law of intestacy, and yet would be kept in the family by means of such fraternal arrangements as are made every day on the Continent. A few instances of this kind would go far to dispel prejudices against equal partition, while, in the case of properties to which no family sentiment attaches, directions to sell and divide the proceeds in specified proportions could hardly fail to supersede, by their superior convenience, the plan of devising to one child and charging portions for all the rest. Indirectly, therefore, the mere assimilation of real to personal estate, on intestacy, would probably effect a considerable though gradual revolution in the English land system, even though not supplemented by any other enactment.

Such is the object of the simple Bill "for the better settling the Real Estates of Intestates," originally introduced by Mr. Locke King, and re-introduced by Mr. T. B. Potter in the Session of 1876. This Bill provides that where any person beneficially entitled to any real estate shall die without a will, that estate shall pass to his executor or administrator, and shall be either divided or sold, exactly as if it were personalty, for the benefit of creditors and the next of kin. A "Real Estate Succession Bill" of the same general character was introduced by the Government in the Session of 1870, but that Bill, unlike Mr. Locke King's, was intended to cover legal, as well as equitable, or beneficial, estates, while it included various saving clauses more or less open to criticism. A third Bill, introduced by Mr. Locke King and Mr. Hinde Palmer in the Session of

1873, after providing against certain technical difficulties, embraced within its definition of real estate every kind of property which is not personal estate. Not one of these Bills, however, goes the length of vesting in the executor realty passing by devise, in the same manner as personalty, including leaseholds, passing by bequest, vests in the executor under the existing law. Nor does any provide that real estate, passing by descent or devise, shall cease to be exempted from the probate duty imposed on personalty. Still less does any interfere with the rule under which a person succeeding to real estate, though he may inherit in fee simple, is charged with succession duty on his life interest only, and is permitted to pay this duty by instalments—a rule which amounts to a legislative protection of landed property against a salutary liability to dispersion.

A far more serious and difficult issue arises upon the various proposals for amending the existing law of entail and settlement. These proposals usually assume one of two general forms, widely differing, in principle, from each other. Either they contemplate a reconstruction of our land system on the model of the Code Napoléon, or they are directed to a simple restriction of the power whereby estates can be tied up for a life or lives in being, and a period of twenty-one years afterwards. Both of these schemes purport to promote Free Trade in land, and to check its aggregation in the hands of an exclusive aristocracy: the former, by constantly and forcibly breaking up properties into fragments, easily saleable; the latter, by prohibiting or curtailing the limitations which prevent their coming into the market. Thus, both involve an abridgement of the liberty now enjoyed by English settlers and testators, but with this important difference, that whereas the one scheme would only abridge the liberty of a bygone generation to control the action of the living generation, the other is directly at variance with full individual proprietorship. Under the French system of enforced partible succession, the property of each citizen is rigidly settled, with the exception of a fixed disposable portion, but the settlement is made by the State, instead of by himself, and therefore without regard to peculiar family circumstances. The causes which facilitated the introduction of this great legal

revolution into France have been explained by MM. de Tocqueville and Lavergne, and Mr. Cliffe Leslie has done much to repel the objections, both social and agricultural, which have been persistently urged against it in this country. It is a remarkable fact that no French Government, whether Legitimist, Orleanist, Imperial, or Republican, has ever attempted to reverse it; nor can we fail to be struck by the opinion so generally expressed in the Reports above cited, that in countries which have borrowed this article of the Code Napoléon it is believed to work beneficially. On the other hand, it is not less significant that no practical English statesman has ever advocated its adoption, and that even those English theorists who have least sympathy with the rights of property have apparently no great partiality for the agrarian constitution of France and Belgium. Their ideal is not the infinite disintegration of landed property among peasant owners, which they would regard as a retrograde measure, but, on the contrary, its concentration in the hands of one national land commission, or a number of municipal land commissions, under whom private individuals, if allowed to call any land their own, must be content to hold leases. With that far larger and more important class who are engaged in amassing wealth in the assured hope of leaving it as they please, enforced partible succession would assuredly find as little favour as with the landed aristocracy; and if there be a leaning in this class towards any foreign land law, it is not towards that of France, but towards those of the United States and our own colonies. As for the great mass of Englishmen, it may be taken as certain that a law placing the State *in loco parentis*, and declaring that a father who has made his own fortune shall not be free to deal with it by will, or to disinherit a child, however worthless and ungrateful, would be in the highest degree unpopular. Upon these grounds, apart from all economical considerations, we must dismiss this proposal as an impossible solution of the problem before us—impossible, because it would satisfy no class or school of thought in England, because it has no foundation to support it in the organic framework of English society, and because the very ideas necessary to lay such a foundation are entirely wanting. It would be rash to assert that so direct an

interference with personal rights will never be accepted by this country, but we may safely assert that if the only alternative to English Primogeniture were indefeasible equal succession, that institution would probably fulfil the prediction of Adam Smith, and survive for generations longer.

For different, but equally cogent reasons, we must reject as impracticable the bold suggestion of Mr. J. S. Mill, who condemns both the English and French rules of succession, that it would be expedient to restrict, "not what any one may bequeath, but what any one should be permitted to acquire by bequest or inheritance," so that it should not exceed a *maximum* "sufficiently high to afford the means of a comfortable independence." A very little reflection upon the practical application of this suggestion ought surely to convince us that even if it were possible to make it the basis of a testamentary code, it would be hopeless to carry it out with any approach to real equity. But a detailed criticism of it would here be out of place, because it is not so much designed to check the abuses of Primogeniture as to realize a favourite idea of Bentham, by diverting the surplus of private accumulations into the public treasury—an object which may or may not be desirable in itself, but which is beyond the legitimate scope of our present inquiry.

By what means, then, can the vices inherent in the English system of entail and settlement be remedied, without impeaching the essential rights of proprietorship and disposition? According to some law reformers, nothing more is required for this purpose than a simple legislative prohibition of entails upon unborn children. There can be no doubt that such a measure, if so framed as to exclude the evasion of its principle by the creation of "powers" or otherwise, might reduce by twenty-one years the period for which land can be lawfully kept *extra commercium* by the force of a single instrument. But it would leave the mischief of limited ownership and contingent incumbrances wholly untouched within the allotted circle of a life or lives in being, or rather, it would stimulate family pride and legal ingenuity to devise new modes of settlement which should make up by their greater complexity for the brevity of their restrictive operation. Indeed, it is quite possible that a

mere prohibition of entails upon unborn children, without any further change in the law, would have less practical effect than some minor amendments of a less sweeping character. In the first place, a broad distinction might be drawn between settlements made by will and settlements made by deed *inter vivos*, especially upon marriage. Posthumous dispositions of all kinds are watched in these days, on very sufficient grounds, with increasing jealousy, and posthumous entails are liable to peculiar objections which do not attach to others. When they are derived from wills executed in prospect of death, they are far more likely to be capricious and self-defeating than if they had originated from the same mind in the full vigour of life; if the will has been executed long before the testator's death, from which it, nevertheless, "speaks," it may not represent his final intention, and may even contravene his first intention, owing to circumstances which have occurred since the date of its execution. In any case, the power of entailing by will is exercised secretly, and with much less security for deliberation than is afforded by the negotiations that usually precede a marriage settlement, which is manifestly, of all settlements, the one entitled to most indulgence. Upon this ground, a second distinction might be drawn between entails upon the unborn children of the settlor himself and entails upon the unborn children of some other person. It may, possibly, be reasonable to allow a man about to marry the power of providing for his own unborn children by an ante-nuptial settlement, and yet quite unreasonable to entrust the same power to a stranger, animated, perhaps, with the senseless ambition of immortalizing an ignoble name. But it may well be doubted whether it can ever serve any good end that a bachelor should be enabled to designate as his heir a child which may never be born, so irrevocably as to defeat his own capacity of choosing among his children when they are born, or rather when their characters are sufficiently formed. This anomaly might be rectified by an enactment importing into every settlement, by implication of law, a power of appointment, to be exercised at the discretion of the father, but only among the children, and, when exercised, to override the entail. It might also be pro-

vided that every tenant for life under an ordinary family settlement should have the power, by a like implication of law, to charge the estate, for the benefit of his wife or younger children, to an amount bearing a stated proportion to its annual value. The proportion so fixed would thenceforth constitute, so to speak, a legal standard of family justice, and though its adoption would be permissive and not compulsory, the consciences of many would be awakened to a sense of their parental obligations, till it came to be thought a disgraceful thing for a nobleman with £50,000 a year to cut off his daughters, either married or single, with portions of £5000 or £10,000.

A far more effective blow might be struck at Primogeniture, as founded on family settlements, by absolutely putting an end to life-estates in land. Supposing this to be done, but the right of entailing to be preserved, each successive head of a family would be left to inherit the undivided property as tenant-in-tail instead of as tenant for life, unless the entail had been cut off by his predecessor. The chief difference from the family point of view would be, that eldest sons, being entirely in the power of their fathers, who might exercise the right of disentailing at any moment, would be, as it were, bound over in heavy recognizances to good behaviour. The chief difference from the economical point of view would be, that by virtue of the same right the ostensible owner of a property might charge it for his debts to its full value, instead of only to the value of his life interest. It is, however, incredible that, under such a law, the passion for "making eldest sons" would remain unabated. Since younger children would be consigned to beggary, where the father's property consisted solely or mainly of land, unless they were given shares of it or charges upon it, an universal custom of breaking entails for this purpose would probably spring up, and apportionments so made out of a fee-simple estate would almost inevitably be far less influenced by the spirit of Primogeniture than re-settlements of the prevailing type.

But, having gone thus far, how can we avoid going one step further? It is self-evident that if life-estates were destroyed, no freehold estates would remain but estates-tail in possession, and estates in fee-simple. Now, since estates-tail in possession

are convertible into estates in fee-simple at the will of the owner, who has usually the strongest motive for so converting them, it would appear that very little can be either gained or lost by retaining them. We are, therefore, once more brought face to face with the prior and larger question, whether any freehold estate in land short of absolute ownership should be recognized by the law. This question is not to be disposed of by dogmatic assertions that whatever rule be applied to realty must be applied to personalty likewise. To such assertions a controversialist might rejoin that personalty and realty have not in past times been treated by the law on this footing of equality. For instance, the heir, taking all the land on intestacy, was specially exempted from the rule that sums advanced to sons in their father's lifetime should be deducted from their shares at his death, while, by a monstrous perversion of justice, a mortgage debt, contracted on the security and for the benefit of the land, was primarily chargeable on the personal estate, until Mr. Locke King's Act was passed in 1854. This, however, is not the place to multiply proofs of the partiality formerly shown to land by a legislature principally composed of landowners, still less to discuss the incidence of taxation upon land as compared with personalty. There are very strong reasons for objecting to complicated reservations of future interests in personalty, and for doubting whether the efforts of the dead to regulate the enjoyment of wealth by the living in the interest of the unborn, are sufficiently repressed by the rule against perpetuities and the Thelusson Act. But these reasons have little or nothing to do with the law and custom of Primogeniture, which must stand or fall by the peculiar claims and obligations of real property. We are here concerned with the settlement of land, and of land only; nor is it difficult to show that land is, in this regard, a thing *sui generis*, over which the State may and ought to assume a control, far more stringent than it would be politic to assume, but not than it might rightfully assume, over other kinds of property. The familiar arguments in support of this position are derived from the fact that land is strictly limited in quantity, at least within the borders of each kingdom, and that its resources in a virgin

state are not the production of human industry. These arguments are so far valid as to rebut what does not need to be rebutted—the presumption of any binding analogy between land and money. But the one decisive justification for treating land as an entirely exceptional subject of property is to be found in the entirely exceptional power which the possession of it confers. If we contemplate the supreme influence wielded by landowners collectively over the condition and especially over the dwellings of the people; if we remember that upon their estate-management depend the productiveness of the soil and the home-grown food-supplies of the country; if we realize that not only is the land in a physical sense “the leaf we feed on,” but in a political sense the substratum of our whole administrative machinery; we shall not fail to perceive the full absurdity of postulating that it should be exactly assimilated to stock in plasticity for the purposes of settlement—but not, forsooth, in facility of transfer, in the course of devolution on intestacy, or in liability to probate and succession duties.

The more thoroughly we appreciate the almost insuperable difficulty of partially reforming an institution so deeply rooted and widely ramified as the custom of entail and settlement, the more irresistible will appear the conclusion that it is better to reform it altogether, by abolishing all kinds of ownership except ownership in fee-simple, with all customary and copyhold tenures, and by imposing proper restrictions on the length of leases. The conception of such a measure would demand an effort of constructive statesmanship quite as bold as that of the Irish Land Bill, while its execution would affect still vaster interests, and must be spread over a longer period of time. Once carried, however, it would cut half the knots which together make up the English Land Question. One of these knots consists in the difficulty, expense, and delay, attending the transfer of land, especially in small lots, and it is sometimes assumed, too hastily, that all this could be rectified by a good system of registration, such as exists in most Continental States, where a public court does what is here done by conveyances. It should be remembered that, even where a transfer of stock is effected by a mere stroke of the pen, a long and costly investi-

gation must often be previously undertaken on behalf of the trustees who authorize the sale. No system of registration could bring about Free Trade in land under settlement, but a register would become invaluable both to vendors and purchasers, when every name in it would be that of an owner in fee. Trusts of land, with all their vexatious incidents, would soon be obsolete when there were no reversionary interests to be protected. Mortgages on old family properties would be rarer and more easily cleared off, when every acre of land could be turned into ready money at the owner's pleasure. They would, however, be more frequently contracted on new purchases by capitalist farmers, when it was discovered that it might be practically cheaper to pay interest to a mortgagee than rent to a landlord.

But these advantages, it must be confessed, might perhaps be secured by less radical methods. What cannot be secured by any method consistent with the principle of modern entails is, in one word, unity of proprietorship. A settled estate is an estate which has not, and may never have, a real proprietor. For the common family settlement is a contrivance whereby the land itself may be saved from *morcellement* at the expense of the proprietary interest, which is dissected, split up, and parcelled out into more shares than a French lawyer would think possible. This process is repeated in each generation by a family compact between father and eldest son, in which no other member of the family has any voice, yet neither of the parties is truly a free agent, or in a position to reverse the self-renewing dispensation of which they are little more than instruments, and no single person can be identified as the author. Now let us assume that, due provision being made for vested interests, all this ingenious network of particular estates, as they are technically called, were swept away by law, and that every acre of English soil belonged absolutely to some assignable owner. Let us, further, picture to ourselves a case in which the operation of the change would be most severely tested—the case of an heir succeeding to a family property strictly entailed by its original purchaser and held together for centuries by settlements in the eldest male line, but finding himself at perfect liberty to sell it or devise it as he pleases. This is a

case, be it remarked, which, but for the practice of re-settlement, would occur daily under the present system, and does occur sometimes, when the eldest son obstinately refuses to commute his estate-tail for a life-estate. It will hardly be disputed that a landowner so circumstanced has a more enviable lot, with great inducements and greater power to do his estate and all connected with it full justice, than if he were the mere creature of a settlement; but it may be imagined that his gain is more than counterbalanced by some loss elsewhere. Where, then, is this loss, and who is it that suffers by the substitution of ownership for life-tenancy in the case supposed? Not, surely, his ancestors, who, having brought nothing into the world, could not carry anything out, and whose memory it would be superstitious to personify. Not his wife or younger children, whom he is now enabled to endow according to his own convictions of justice, instead of according to a standard, determined by the paramount claims of Primogeniture, before his marriage, if not before his birth. Not his eldest son, who, by the hypothesis, must have come into the world, or at least emerged from childhood, after the alteration in the law, and would have been educated in the full knowledge that his birthright, if any, was at the disposal of his father. Not any more distant relatives, whose interest in family estates, unless vested, is usually most shadowy and delusive. Not unborn descendants, who might possibly inherit if the entail were perpetually renewed, under the present law, but who are equally with the dead beyond the reach of appreciable injury. In short, we strive in vain to discover any specific individual, either in *esse* or in *posse*, who could be aggrieved by the legal extinction of life-estates and estates-tail, under proper conditions of time. Still it may be said that "families," that is, territorial families, would sooner or later cease to exist without the artificial safeguard of complex settlements, and that such a result would prejudice not only the happiness of their members in all succeeding generations, but the welfare of all the rural communities grouped around them, and even of the nation at large. And thus we are led back to a point of view from which the actual results of family settlements have already been estimated, and from which it may

now be useful to forecast the probable results of the alternative system.

The first, and not the least salutary, of these would be the strengthening of parental authority in those families where it is most needed. The father is, upon the whole, a wiser lawgiver and a more impartial judge within his own domestic circle than any providence of human institution, whether it be embodied in a lifeless deed or in a lifeless statute; and, as Mr. Locke King justly remarks, "if such a disposer of property did not exist, we should only be too happy to discover such a being." Invested with full dominion over his landed estate, the head of each family would no longer have any cause to be jealous of his eldest son, or feel bound to maintain him in idleness during the best years of his life. Doubtless there would still be a strong disposition in most representatives of old hereditary properties to leave the eldest son, if not unworthy, the principal family domain, with the bulk of the land; but since he would depend, like his younger brothers, upon his father's award, and could not raise money upon his expectations, he would, like them, betake himself to some profession or business, and endeavour to increase, instead of diminishing, his future patrimony. In such cases, the position of the younger children would be very much what it is under the present system, during the parent's life; but even in such cases, and still more in cases where hereditary traditions were less powerful, the father would seldom think himself justified in leaving them a mere fraction of the property at his disposal, and would often direct his outlying estates to be divided among them or sold for their benefit. In these ways land would be constantly "passing out of the family," and though some might be left back to it by childless uncles, the unity of family properties would be greatly and progressively impaired. Moreover, now and then, a spendthrift who ought to have been disinherited would be allowed to succeed by a too indulgent father, and might gamble away in a year the purchases and improvements of many generations. This being the contingency which settlements on the eldest son are specially designed to prevent, and the occurrence of which is represented by the friends of Primogeniture as an unmitigated calamity, it

may be well to pause for a moment, and observe both what it does and what it does not involve.

That it does not involve any destruction or even any "dissipation" of the land itself is so obvious that nothing but the persistent use of confused metaphors could have obscured it. Money, or money's worth, can be eaten, drunk, thrown into the sea, or otherwise literally consumed in unproductive expenditure, but a fortune consisting of land can only be squandered in the sense of being transferred from the dominion of one man into that of another or several others, which may happen to be the best thing which can befall the soil and all who live upon it. Considering the enormous injury done to any estate by the life incumbency of one insolvent—not to say, one absentee—proprietor, as well as the well-known tendency of families to degenerate after one such disgraceful interregnum, the burden of proof certainly lies upon those who hold that, in such an event, the greatest happiness of the greatest number is promoted by keeping it undivided and inalienable, lest an ancient feudal name should perish out of the county. But this, as we have seen, is a very inadequate view of the whole case. Might it not be expected that, if each successive heir of an illustrious house were actuated at once by ancestral pride and the fear of forfeiting his birthright through misconduct or incompetency, a healthy kind of atavism would develop itself in the landed aristocracy, and the virtues manifested by the founders of families would be more frequently reproduced in their descendants? Nay, more, does not our knowledge of human nature, confirmed by the experience of Germany, America, and the Colonies, encourage us to hope that in terminating all infeasible rights of succession, we should be unlocking hidden springs of energy and genius, calling into action the mettle of that "lounging class" which is the reproach of English Primogeniture, infusing unwonted industry into our aristocratic public schools and universities, and making henceforth the antiquity of a family a true mark of hereditary strength?

In the mean time, no sudden or startling change would be wrought by the new law in the characteristic features of English country life. There would still be a squire occupying the great

house in most rural parishes, and this squire would generally be the eldest son of the last squire; though he would sometimes be a younger son of superior merit or capacity, and sometimes a wealthy and enterprising purchaser from the manufacturing districts. Only here and there would a noble park be deserted or neglected for want of means to keep it up and want of resolution to part with it; but it is not impossible that deer might often be replaced by equally picturesque herds of cattle; that landscape gardening and ornamental building might be carried on with less contempt for expense; that game preserving might be reduced within the limits which satisfied our sporting forefathers; that some country gentlemen would be compelled to contract their speculations on the turf, and that others would have less to spare for yachting or for amusement at Continental watering-places. Indeed, it would not be surprising if greater simplicity of manners, and less exclusive notions of their own dignity, should come to prevail among our landed gentry, leading to a revival of that free and kindly social intercourse which made rural neighbourhoods what they were in olden times. The peculiar agricultural system of England would remain intact, with its threefold division of labour between the landlord charged with the public duties attaching to property, the farmer contributing most of the capital and all the skill, and the labourer relieved by the assurance of continuous wages from all risks except that of illness. But the landlords would be a larger body, containing fewer grandees and more practical agriculturists, living at their country homes all the year round, and putting their savings into land, instead of wasting them in the social competition of the metropolis. The majority of them would still be eldest sons, many of whom, however, would have learned to work hard till middle life, for the support of their families; and besides these, there would be not a few younger sons who had retired to pass the evening of their days on little properties near the place of their birth, either left them by will or bought out of their own acquisitions. With these would be mingled other elements in far larger measure and greater variety than at present—wealthy capitalists eager to enter the ranks of the landed gentry, merchants, traders, and professional

men content with a country villa and a hundred freehold acres around it, yeoman-farmers, and even labourers of rare intelligence, who had seized favourable chances of investing in land. Under such conditions, it is not too much to expect that some links, now missing, between rich and poor, gentle and simple, might be supplied in country districts; that "plain living and high thinking" might again find a home in some of our ancient manor-houses; that with less of dependence and subordination to a dominant will there would be more of true neighbourly feeling, and even of clanship; and that posterity, reaping the beneficent fruits of greater social equality, would marvel, and not without cause, how the main obstacle to greater social equality—the law and custom of Primogeniture—escaped revision for more than two centuries after the final abolition of feudal tenures.

LOCAL GOVERNMENT IN ENGLAND.

1875.

SYNOPSIS.

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THE origin of Local Government in England, like that of our civil liberty, must be sought in the primitive but well-ordered communities of our Saxon forefathers. It is well observed by Guizot, that in the earlier stages of civilization, no government but local government can have any practical existence, and that local rights are the most important of all rights for men whose life never goes beyond the boundaries of their fields. The German nations, as described by Cæsar and Tacitus, were nothing but associations of self-governed villages, or larger districts, occupied by separate families or clans, among whom there was not even the shadow of a common national allegiance, except for purposes of war. Such was the organization of the Saxons, Jutes, and Angles, when they first settled in England, and though petty monarchies were founded in process of time, and

ultimately absorbed into one kingdom of England, such continued for centuries to be the essential organization of the English people. Townships and burghs and even counties were not so much fractions or subdivisions of the whole English commonwealth, as the integral units out of which the English commonwealth was moulded into national life. The history of Local Government in England is, thus, almost co-extensive with constitutional history during the period before the Norman Conquest, and fills a very large space in constitutional history, until the legislative power of Parliament became firmly established under Edward I. and his two successors.

I.

1. The broad features of those local institutions which formed the basis of English society, between the reign of Alfred and that of William the Conqueror, have at length been identified with sufficient certainty. The patient researches of English and German students have swept away, so to speak, the overlying crust of Norman workmanship, and revealed to view the original structure in its massive and symmetrical proportions. If it be well-nigh impossible, for want of contemporary descriptions, to realize the inner domestic life of an English homestead in the tenth or eleventh century, we may yet form a distinct conception of the public duties and privileges which attached to a thane or country gentleman of that age, when towns were in their infancy, and landless men, even though otherwise freemen, were compelled to place themselves under the protection of a lord.

Let us, then, imagine the case of a landowner below the rank of king's thane, because not holding directly from the Crown, but possessed, at least, of the twelve hundred acres which secured him a *status* in the class of the landed aristocracy, and entitled his family to a *weregild*, or compensation, of six hundred shillings, in the event of his being slain. Such a thane probably lived in a dwelling not unlike the abode of Cedric the Saxon, delineated in "Ivanhoe," but smaller and ruder in its construction, surrounded by dependants, of whom some were

humbler freemen duly "commended" to him, and some mere thralls or slaves. Over these last his power was absolute; they were part of his farm or household stock, and if they were slain, the compensation was paid to him. With the neighbouring freeholders, gentle and simple, his relations were altogether different, though regulated in some degree by their rank and place of residence. Those of them who inhabited the same township with him would be entitled to meet him on equal terms in the open village meeting, then called a "town-moot," and now a "vestry," where they would join with him in electing the town-reeve, or village-mayor; although, if he should happen to be the proprietor of the entire township, he might appoint a steward, with the general authority of a town-reeve. At the town-moot held under the presidency of the town-reeve, he would take part in making by-laws for the little village republic, in adjudicating on petty disputes, in choosing four men to represent the township with the town-reeve in the higher courts of the hundred and the county, in making assessments of judicial fines, and instituting local inquiries by direction of these courts, in causing nuisances to be abated, in providing for repairs of bridges, and in preparing tithing-lists for "the view of frankpledge," a somewhat obscure method of enrolling freemen, in bodies of ten, as perpetual bail for each other's good behaviour. Perhaps the church of the parish, usually, but not always, coterminous with the township, had been built and endowed by himself or his ancestors, and, in this case, he would nominate the incumbent, but he would share with his fellow-parishioners the right of choosing a church-reeve or churchwarden. Perhaps, in addition to his own private estate, he may have been part owner of meadow and arable lands belonging to all the members of his township, under that antique form of agrarian partnership known as the Mark system; and, in this case, he would share with his fellow-townsmen the right of settling in "mark-moot" the rules by which their common husbandry and pasturage should be governed, unless, indeed, his township should already have been merged, for these purposes, in a manor, its common mark converted into the lord's waste, and its mark-moot superseded by a manorial court.

A far wider jurisdiction, however, was entrusted to the hundred court, whither (if delegated by his township) he would repair once a month, under pain of a fine, to aid in transacting the judicial, fiscal, and administrative business of the hundred, a territorial division supposed to correspond with the *pagus* of Tacitus and the *gau* of modern Germany. In this court he would sit in judgment on criminals, and try civil suits, partly in the capacity of a magistrate, and partly in that of a jurymen, together with the parish priests, town-reeves, and "best men" of other townships, under the presidency of an officer, sometimes called the hundred-man, and sometimes the *gerefa* or reeve of the hundred. He would also be occupied in witnessing transfers of land, in managing the system of frankpledge through officers called tithing men, who then supplied the place of a police force, in distributing the few local burdens then existing among the constituent townships of the hundred, and in accounting for the profits of the hundred, chiefly arising from mulcts and fines, to some person deputed by the sheriff of the county. For it is needless to say that it was the county-court, and not the hundred-court, or town-moot, which combined and controlled all the powers of self-government in those early times, amercing both hundreds and townships for allowing the escape of prisoners, for not maintaining bridges, and for any other neglect of their corporate duties. There he would find himself associated twice a year with the bishop, the ealdorman, and the sheriff, the representatives of hundreds, the representatives of townships, all public officers of the county, and his fellow thanes, in hearing appeals from the hundred-courts, or causes arising between one hundred and another. As a member of this county parliament, significantly called the folk-moot as well as the shire-moot, he would not only become conversant with the ealdorman's military administration of the county, with the sheriff's administration of Crown lands and collection of royal dues, and with the bishop's administration of Church affairs, but he would also have a voice in the maintenance of water-courses, roads, and bridges over the whole county, in the registration of all acts affecting property within the county, and even, on rare occasions, in the deliberations of the county on Imperial policy.

In short, though none but king's thanes were qualified to attend the Witenagemote, or great council of the nation, by virtue of tenure, yet the English country gentleman of lower degree was probably a more influential and not less active personage before the Norman Conquest than he is at the present day. That was not an age in which it was necessary to remind any landlord, great or small, that property has its duties as well as its privileges, for the retention of privileges, if not of rights, was felt to depend on the vigilant performance of duties, and Government was no unseen Providence guaranteeing men against the consequences of their own neglect. If justice was brought home to his door, it was by his being prepared to join in a hue-and-cry, to watch the conduct of his fellows in the same tithing, and to attend regularly in local courts to investigate crimes, and settle disputed claims. If he wished to have a passable road between his own village and the next, he must induce the county to order it, and he must help to keep it in repair by his own labour and that of his servants. If his stream were fouled by his neighbours, or encroachments were made on his land, he must seek redress by making a complaint in person before the popular tribunals of the hundred or township. On the other hand, he was spared the vexatious liability to local rates which the exigencies of modern civilization have substituted for the simpler rule—*sic utere tuo ut alienum non lædas*. As for State concerns, he knew little of them, except when he might be summoned to fulfil the primary obligation of the *trinoda necessitas*, or threefold liability, and to bear arms for the defence of the realm. He seldom felt the pressure of general taxation; his daily life was scarcely affected by general legislation; he knew of no Home Office or Local Government Board capable of interfering with his liberty of action, and there were few visible symbols or public acts to remind him of the royal authority. To him it made no perceptible difference whether Edmund or Canute wore the Crown of England, and he may well have been content to leave such matters with the Witenagemote, in which he was not represented, so long as peace and order prevailed within the township, hundred, and county by which his cares and ambition were alike bounded.

If this be true of the larger class who resided in the country, far more is it true of the smaller class who resided within boroughs. In all states of society, towns have exhibited a greater capacity for local self-government than country districts, since the community of interest among townspeople is more strongly marked, their intelligence more highly cultivated, and their opportunities of assembling together more frequent. The Saxon boroughs, therefore, whether they occupied the sites of old fortified camps, grew up spontaneously at the mouths of rivers, or clustered round great country-houses and monasteries, have been accurately described as more strictly organized townships, although, in the constitution of the county, they seem to have been reckoned not as townships but as hundreds. Probably the larger boroughs, at least, combined the elements of both organizations, the reeve of the borough possessing the joint attributes of a town-reeve and a hundred-man, while the borough-court, held only thrice a year, was at once a town-moot and a hundred-court. Possibly one or two cities, besides London itself, may even have attained a rank co-ordinate with counties, but this cannot be affirmed of other boroughs. They sent no representatives to the county-court, yet they were included within the county administration, and were subject to the sheriff's jurisdiction. This circumstance, which might be supposed to derogate somewhat from their municipal independence, really contributed to establish it on a firmer basis. At a period before the Norman Conquest, and apparently before their privileges were secured by charter, the leading towns of England had succeeded in compounding with the Crown for the uncertain dues formerly collected from them by the sheriff, and this fixed composition or tax was ultimately converted, by the concession of a "*firma burghi*" into a corporate fee-farm rent. In the mean time the infinitely various customs of their burghers had so nearly acquired the force of law as to be formally recorded in Domesday Book; their merchant guilds were assuming the right of making by-laws for the regulation of trade; and their common-lands, which many of them still retain, supplied at once a means of subsistence and a bond of association for the poorer freemen. Upon the whole, English boroughs in the age

preceding the Conquest had made great advances in the art of self-government, notwithstanding that many of them were nominally subject to great nobles, like the villeins of a manor, and thus occupied a humble position in the hierarchy of land tenure. Their local institutions could not be more thoroughly popular in principle than those of the surrounding country districts, but they were practically better secured against lawless encroachments, and less easy to mould into harmony with a centralizing policy.

2. It was for this reason, as well as because the *bourgeoisie* were valuable allies of the Crown against the barons, that Local Government in towns was gradually strengthened, while Local Government in counties was gradually weakened, under the Norman and the earlier Plantagenet kings. The power which the Witenagemote had already asserted over the county-courts, and the power which English kings had always possessed in times of invasion, were at once concentrated in William the Conqueror, with or without the advice of his Council. Many of the powers which had been vested in the elective officers of townships, hundreds, and counties, insensibly passed into the hands of great feudal lords, who exercised them for the most part through deputies. It is true that few organic changes were made in the framework of Local Government, and that it was no part of the Conqueror's design to destroy the ancient liberties of the people. On the contrary, both he and the wisest of his successors professed to be the guardians of these liberties against the arbitrary usurpations of their nobles; and their repeated promises to maintain the laws of Edward the Confessor were, in reality, promises to maintain the system of Local Government which existed in that king's reign. Such a system, however, could not but languish side by side with the organized anarchy of feudalism, and was further disintegrated by the very reforms which at last broke down the abuses of feudalism, and developed a true national unity.

The old town-moots, so far as appears, were never explicitly abolished, but as one township after another became the manor of a feudal lord, its sense of political unity became lost in a sense of agricultural unity, and its town-moot was transmuted

into a court baron, wherein the freeholders had still judicial authority, but in the new character of manorial tenants. The hundred-courts were not only not abolished but were directed to be held regularly, and attendance upon them was enforced by fines. Moreover, the sheriff's tourn and leet, as it was called, a court which so long exercised the same kind of criminal jurisdiction as that now vested in magistrates, was but the hundred-court under another and less popular name. Yet these courts rapidly lost their importance: partly because they were superseded by the county-courts, now held monthly, and partly because so many franchises, or rights of private jurisdiction, had been attached by grant to lordships, as greatly to reduce and obstruct the business of the smaller popular courts. The county-courts themselves survived for many centuries, and even acquired extended powers under a series of statutes; but they were no longer the great representative assemblies of pre-Norman days, when the bishop and the ealdorman attended them as assessors of the sheriff, and all the affairs of the county were brought directly under their control. It is well known that William the Conqueror prohibited the bishops from sitting in secular courts, and removed all temporal matters from the cognisance of ecclesiastics. The effect of this measure, in an age when ecclesiastics were the chief interpreters of law, was to shake public confidence in the county-courts; the ealdorman soon ceased to frequent them, and they fell under the paramount sway of Norman sheriffs, or vice-comites, whose office was, in some counties, hereditary. The institution of circuits for merely fiscal purposes by Henry I., and their complete organization for judicial as well as fiscal purposes by Henry II., tended still more to undermine the influence of county-courts. These courts, it is true, were solemnly convened to meet the King's justices in eyre: and the Assizes were originally little more than extraordinary sessions of the old county tribunals, held before special commissioners instead of before the sheriff, where pleas of the Crown and important suits were determined by the oath of select witnesses—a mode of procedure rapidly developed into the system of trial by jury. The ordinary constitution of the county-courts was not altered; they continued, as before, to

regulate county administration; their machinery was freely used by the Conqueror and his successors to obtain local information, or to raise money; Acts of Parliament were published there in later times, and they were still regarded, by virtue of a traditional sentiment, as the "*forum plebeie justitie et theatrum comitivae potestatis*." But they had practically been ousted of their higher judicial power, both civil and criminal; large tracts of country had been entirely withdrawn from their jurisdiction by the oppressive forest-laws; the *vis major* of feudal obligations must often have interfered with their requisitions of local dues and personal services; they were of less and less value as deliberative assemblies after the creation of a national Parliament; and their general executive functions were beginning to be sub-divided among special officers, whose successive appointments mark the first stage of transition from the ancient to the modern form of Local Government.

The earliest of these appointments was that of "coroner," which is supposed to date from the instructions issued for a visitation, or "*iter*," of the King's justices in 1194. It is there ordained that each county shall elect three knights and one clerk to guard pleas of the Crown; and the next article of the same document, forbidding sheriffs to be justices in their own counties, may serve to explain the purpose of this ordinance. Doubtless it had been found by experience that sheriffs abused their judicial authority by the exaction of exorbitant profits for themselves; but it is also clear that, in spite of every precaution, there was a growing tendency in counties towards personal government by sheriffs, inconsistent both with the rights of the sovereign and with the liberties of the people. From this point of view, it is worthy of notice that, whereas the Articles presented by the barons at Runnymede demanded that no sheriff should meddle with pleas of the Crown "without coroners," the 24th Article of Magna Charta itself declared that coroners, as well as sheriffs, constables, and bailiffs, should be excluded from holding such pleas. It does not appear, indeed, that coroners ever filled a very important place in Local Government; and their duties, as defined by statute in the reign of Edward I., differ but little from those which they discharge at the present day. Still, the

fact of their office being made elective, coupled with the fact of the shrievalty itself being elective during part of the thirteenth and fourteenth centuries, is a proof that in counties, no less than in boroughs, popular local institutions were regarded as the proper counterpoise to the spirit of feudal oligarchy.

The offices of High Constable, and Petty or Parish Constable, may be dated, with some degree of certainty, from the Assize of Arms issued by Henry III. in 1252. No mode of election is there prescribed, but it is simply enjoined that a high constable shall be "constituted" for every hundred, and a petty constable for every parish, who shall muster the inhabitants to arms against disturbers of the peace, and deliver them over to the sheriff. This provision, which shows how little the law of frankpledge was observed, was extended in 1285, by the famous Statute of Winchester, whereby it was enacted that two high constables should be chosen in every hundred and franchise, and should report to the King's justices. In the reign of Edward III., parish constables were directed to be chosen at the court leets of their respective townships, and succeeded the old tithing-men or head-boroughs in the duty of levying the "townley," or consolidated parish-rate, hence called the "constable's tax."

A far more important change was made in the local administration of country districts when a regular commission of the peace was organized in every county. As the King assumed more and more responsibility for the peace of the whole realm, and especially after the Statute of Winchester, local officers had occasionally been nominated, under the title of "conservators," to assist the sheriffs, coroners, and constables, in putting down riots and disorders. In the first year of Edward III.'s reign, a further step was taken by the enactment that good and lawful men should be assigned to keep the peace in every county; and by a series of later statutes one duty after another was cast upon them, until they absorbed most of the authority, both judicial and administrative, formerly vested in the county-courts and the sheriff's "tourn." These Justices of the peace, as they were soon called, were to be landowners in their respective counties, but some learned in the law were to be associated with them;

and they were armed from the first with very arbitrary powers for the prevention of crime, by arresting thieves and vagrants even on suspicion, and taking security for good behaviour. After some years they were commissioned to hear and determine felonies, but only at their general Sessions, and not without the safeguard of trial by jury. It followed naturally that, when the oppressive Statutes of Labour were passed, the justices were charged with the invidious task of enforcing them. A protest against the indefinite extent of their jurisdiction was made by the Commons in the reign of Richard II., but the new machinery was too useful to be discarded; and before the end of Henry VIII.'s reign their functions must have been almost as multifarious as they are in our own times. It was they who, by an Act of 1580, were empowered, with the assent of representatives from each township, to lay a direct tax on all the inhabitants of the county for the repair of bridges, instead of leaving the burden to be apportioned by hundreds and parishes. It was they who, in the following year, were required to make a similar rate for the building of gaols; and in both instances they were authorised to appoint collectors of their own. They had long been under a statutable obligation to hold sessions four times a year, or oftener if need were, at which Quarter Sessions two justices should form a *quorum*; and by another Act of Henry VIII., passed in 1542, they were directed to establish petty sessional districts, each to contain at least two justices, for the better repression of vagrancy and other breaches of the law. Before long, justices in petty sessions were invested with the novel power of exercising summary jurisdiction—that is, of trying minor charges without the assistance of a jury. Finally, when the dissolution of monasteries and decay of feudal society had produced a pauperism too wide-spread to be cured by the most rigorous measures against mendicancy, it was the justices who, under the first Poor Law of 1601, were invested with the power of selecting two, three, or four, householders to act as overseers with the churchwardens in each parish; of levying a contributory rate on neighbouring parishes, and even on neighbouring hundreds; and of erecting houses of correction for undeserving beggars. In the mean time, the care of all the

county records had been entrusted to another high official, entitled the *Custos Rotulorum*, selected from the body of justices. This dignitary, himself appointed by the Chancellor, had the right of appointing the clerk of the peace; and probably occupied a position superior to that of a modern Chairman of Quarter Sessions. After the Reformation, too, when no County Palatine existed independent of the Crown, except that of Durham, the ancient military prerogatives of the ealdorman as commander of the county militia were revived in the person of Lord-Lieutenants, who, being justices of the peace, often held, in addition, the office of *Custos Rotulorum*. The process whereby magistrates have become the chief rulers of country districts was thus nearly complete in the lifetime of Shakespeare; and, however astonishing may have been the subsequent development of Local Taxation, there has been no comprehensive reconstruction or reform of Local Government in English counties since that age.

Let us now glance briefly at the parallel history of Local Government in towns between the Conquest and the end of the sixteenth century. This history is, happily, less open to controversy, for it may be traced by the light of charters and other documents still extant. The great era of borough charters is the later half of the twelfth and early part of the thirteenth century. During this period most of the English cities and county towns obtained a renewal and extension of their old municipal franchises and trade privileges. London, as is well known, was chartered, though not incorporated, by the Conqueror himself, who guaranteed its port-reeve and bishop the rights which they had enjoyed in King Edward's days. Henry I. granted its citizens the liberty of electing their own sheriff and justiciar, and relieved them from external jurisdiction, as well as from Danegeld and a number of other vexatious imposts. These concessions were confirmed, with various modifications, by succeeding kings, and the Mayoralty of London is traced back to the beginning of Richard I.'s reign; but it was from John that London first received the royal permission to choose a Lord Mayor annually, and accordingly the Lord Mayor of London appears among the signatories of Magna Charta, by which the customs of the City were expressly secured. Other

towns gained their civic independence more slowly, and seldom without the payment of large fines to the King, or bishop, or secular lord, in whose demesne they were situated. Out of more than forty whose customs were considered deserving of mention in Domesday Book, very few besides London had acquired the right of electing their own officers before the reign of Richard I. or John, whose borough charters are numerous, and more liberal than any that had been granted by his predecessors. If we take as a specimen that of Lincoln, we find that at least two generations before representatives of towns were summoned to Parliament, the representative principle was recognized and carried out in their municipal government. Not only were the citizens of Lincoln enabled to plead an immunity from all foreign jurisdiction, except that of the king's justices, and, moreover, from all the more oppressive liabilities of feudal dependence, but they were expressly empowered to elect two discreet men to act jointly as town-reeves, with four others to keep pleas of the Crown, and to see that the town-reeves performed their duties impartially towards poor and rich. Equally marked peculiarities are to be found in other charters, but in almost all, the ratification of ancient customs is most ample, and a highly democratic basis of internal self-government is either laid down or assumed.

No doubt, the inhabitants of chartered boroughs, though generally exempted from tolls, were still liable to be tallaged or taxed at will until the year 1297; their right to Parliamentary representation was sometimes defeated by the caprice of a county sheriff, and they ranked far below county-freeholders in political and social estimation. But, for all this, an English burgher in the Middle Ages, once within the walls or municipal boundaries of his own borough, found himself in an atmosphere of liberty and equality, such as might have prevailed in the Athens of Pericles or the Florence of Dante, but had ceased to prevail in English counties since the Norman Conquest. However turbulent may have been the mobs of these petty town-republics, however imperfect their police system, and however primitive their arrangements for drainage and water supply, it is certain that municipal public spirit was more active, and that each citizen

realized more fully what he owed to his neighbours, than would be possible under the present routine of municipal administration. The earliest borough members, if not the knights of the shire, represented communities with a vigorous individuality of their own, proud of their local usages and traditions, habituated to self-government by daily practice under perilous conditions, and by no means inclined to devolve their share of sovereignty upon the Imperial Legislature, whether assembled at Westminster, at Winchester, or at Oxford. By degrees, however, an oligarchical element was introduced into the organization of boroughs, chiefly by means of the associations called merchant-guilds. In some cases, the original merchant-guild was co-extensive or almost coextensive with the whole body of burgesses; in other cases, several merchant-guilds ultimately coalesced into one. Sometimes, the guild itself was incorporated by charter, or the borough was placed under the direct government of the guild; sometimes, one or more guilds spontaneously grew up side by side with the municipal corporation, and at last supplanted it. The process whereby, under various forms, the principle of the guild obtained so general an ascendancy in borough-government, and the open meetings of burgesses convened for all purposes of local government became merged in guild-hall meetings properly convened for the regulation of trade alone, has never been fully elucidated. Suffice it to say that it was consummated for the most part during the fourteenth and fifteenth centuries; the wealthiest burgesses, usually members of the guild, being formed into a Town Council, and usurping the power legally vested in all the inhabitants, or, at least, in all the resident householders of the borough. So important a revolution in municipal administration was not always effected without violent contests, several instances of which are recorded in the annals of London; but, on the whole, the popular tenacity of local rights appears to have been weakened, as the central executive and legislature became more powerful. Before the end of the fourteenth century, the ancient hustings-court of London itself had delegated its legislative authority, first to the trading companies, and afterwards to a select body of aldermen and common council men; while in other boroughs, the form of

popular election was tacitly abandoned, and self-elective boards were allowed to monopolise all the powers and emoluments of the commonalty. Instead of checking this abuse, as their predecessors had done three centuries before, the Tudor sovereigns directly encouraged and propagated it by means of new charters, either conferring or reviving the right of Parliamentary representation. By most of these charters the Mayor and Town Council, nominated by the Crown in the first instance, but afterwards to be self-elected, were expressly constituted the borough corporation, in lieu of the burgesses; and not only was the entire local government placed in their hands, but, in some cases, they were given the exclusive privilege of returning the borough members.

3. Such was the general state of Local Government in England during the Middle Ages. We are apt to conceive of English institutions as organized with an almost scientific regularity under the so-called feudal system, and to imagine that, however private wars and other disorders may have interfered with their practical working, their legal forms were far simpler and more uniform than in the present day. A closer survey of the facts, however, leads to a wholly opposite conclusion. The most striking and characteristic feature of mediæval society, in England no less than in other countries, is its marvellous complexity and want of uniformity. Differences of blood, differences of local history, differences of geographical conditions, differences of industrial occupation, and differences of feudal dependence, contributed not only to divide the south from the north, border counties from midland counties, and the sea-coast from the rest of England, but also to stamp every county, almost every borough, and many a country village, with a distinct individuality of its own. Beneath and beside the divisions of classes, on which so much stress is laid by legal students, were the deeper forces of local fraternity and loyalty which gave the wars of the Roses their peculiar character, and made themselves felt in every insurrection or political crisis. There can be little doubt that in this diversity of municipal constitutions, franchises, customs, and sentiments, consisted one of the most potent securities for liberty. London would have

proved more tractable and submissive in the days before Magna Charta, if it had been under one symmetrical form of local government, instead of being overspread with a network of public and private jurisdictions, and subdivided vertically, as well as horizontally, by means of its "sokes," its wards, and its companies. Counties would have been more easily manipulated by their sheriffs, or brought under absolute subjection to the Royal Curia by the inquisitorial visitations of the king's justices, if the ancient Saxon courts, the more recent undergrowth of seignorial and manorial rights, and even such anomalies as the extra-legal *enclaves* created by special franchises, had not, by their very conflict and intersection, constituted an impenetrable obstacle against the encroachments of arbitrary power.

For it must never be forgotten that, if feudal government was less popular in its spirit than Anglo-Saxon government, it was not less truly local. The great Norman chieftains, whose castles towered over the lowly dwellings of burghers and country freeholders, who could imprison men in their own dungeons, and against whom few would have dared to enforce a judgment of the county court, were, nevertheless, stout champions of local independence, and, as such, often succeeded in rallying around them an enthusiasm of local patriotism not unlike that inspired by the cause of State right in America. Neither the feudal levies, nor the paid train-bands led into France by Edward III. and Henry V., were mere casual assortments of recruits held together by regimental discipline under royal officers; they consisted of contingents raised by purely local enlistment, if not by virtue of military tenures, from separate lordships and townships, in which neighbours were associated as comrades in arms, and commanded by gentlemen whom they had been accustomed to obey. The same necessity of consulting local sentiment, and governing through local agency, made itself felt in every branch of civil administration. Long before the method of trial by jury was applied to civil suits and criminal prosecutions, it had been the practice to ascertain local customs, grievances, and fiscal liabilities, by local inquests or "recognitions," upon sworn evidence from inhabitants of the district. Without such previous investigations, it would have been unsafe

and sometimes impossible to enforce general laws, emanating from a central executive, which had no sufficient cognizance of local wants or conditions until Parliamentary representation was established. Even Parliamentary representation itself was, originally, little more than an expedient for obtaining the consent of local authorities to grants made or enactments passed by the national authority; and, it would be hardly too much to say that, for some generations, the English Legislature was rather Federal than Imperial in its essential character. In later times, when the monarchy had surrounded itself with a venal court-party, the country-party in the House of Commons, trained in the school of local self-government, upheld the interests of the nation at large. We learn from the emphatic declarations of Philip de Comines that Louis XI., though he succeeded in debauching the ministers of Edward IV., could not debauch the members sent up to Parliament from the country. The same testimony is recorded by Pepys in the evil days of Charles II.; nor would it be difficult to show that, before a genuine public opinion had been formed by the Press, the vices of corruption and jobbery were less characteristic of Local than of Imperial Government in this country.

4. The period between the Reformation and the Reform Act of 1832 is by no means eventful in the history of Local Government. Its leading features are the foundation and abnormal growth of the Poor Laws; the progressive extension of magistrates' jurisdiction in counties; and the decay of municipal institutions in boroughs. By the Poor Law of Elizabeth, every parish was charged with the support of its own poor, and the distribution of poor relief was entrusted to parochial overseers, under the superintendence of justices of the peace. Already, by an Act of Henry VI., each "village" had been subjected to separate assessment for its contribution towards the wages of knights of the shire; and, by an Act of Philip and Mary, it was provided that two surveyors of highways should be appointed for each parish, and the parishioners were required to keep their roads in repair, either by lending horses and carts, or by the personal labour afterwards known as statute-duty. It is, however, from the Poor Law of Elizabeth that we may date the

erection of the parish into the one elementary unit of Local Government within counties, as well as the definitive constitution of a non-elective board, consisting of magistrates, for the direction of county affairs. The Act of 1662, which imported into the Poor Law the doctrine of pauper settlement, confirmed both of these principles. By enabling paupers to be sent back from places to which they might have migrated, it rooted the rural population in the soil of their native parishes; while it not only gave a right of appeal to Quarter Sessions against any such order of removal, but went on to place the appointment of high constables at the disposal of the Quarter Sessions, and that of petty constables at the disposal of two justices, where the requisite court-leets should have ceased to be regularly held. The almost simultaneous abolition of military tenures, with their oppressive incidents, destroyed the last semblance of feudal jurisdiction; the county courts, though still held for the hearing of small causes in Edward VI.'s reign, at last became obsolete, and all the more important powers of Local Government in counties became centred in the Commissions of the Peace. When James II. meditated the utter subversion of English liberties, his first care was to revise these Commissions through pliable Lord Lieutenants, and his next to pack the county representation through pliable Sheriffs. Happily, neither Lord Lieutenants nor Sheriffs could be found base enough to abet his designs, but these could never have been entertained at all, had not a profound change passed over the democratic county institutions of olden times.

So various and so onerous did the duties of magistrates become in the course of the next century that, according to Blackstone, whose Commentaries appeared in 1765, few then cared to undertake, and fewer understood, that office. By Acts of William III. and Anne, they were empowered, more fully than before, to levy rates for bridges and gaols; by an Act of George II., they were authorized to make one general county rate for all statutable purposes; by Acts of George III., passed in 1778, they were given a special control over parish highways and turnpike roads; and by a series of Acts, ending with one of George IV., passed in 1828, they were enabled, but not compelled, to build

and maintain lunatic asylums out of the county rate. In the mean time, the churchwardens and overseers of parishes had been empowered, so far back as 1723, to erect poor-houses, and it was provided that a single poor-house might be erected by three small parishes acting in concert. This principle was carried much further by the permissive Gilbert Act, passed in 1782, under which two-thirds of the ratepayers in any parish might appoint a guardian of the poor, with all the powers of overseers, except that of making and collecting rates; and unions of parishes might be formed with the sanction and assistance of local justices. Another Act, passed in 1818, called the Sturges Bourne Act, purported to remedy the chief abuses of irresponsible select vestries, which in many parishes had assumed the entire control of parochial taxation and management, but really placed the system of select vestries on a firmer basis, and introduced the pregnant innovation of plural voting. The effect of these measures, coupled with the gradual decline of the old English yeomanry, the substitution of tenancy at will for leases, the indiscriminate allowance of out-door relief, the enclosure of commons, and several other causes, was to impair fatally the spirit and capacity of self-government in rural districts. Such a revolution may have been to some extent inevitable, and partially compensated by greater national unity. Still, the fact remains that by the reign of William IV. the descendants of freeholders, who once sat as judges and legislators in the courts of their own county hundred and township, had sunk into day-labourers but one degree removed from serfdom, dependent on individual landlords for the humblest dwelling, and on landlords assembled at Quarter or Petty Sessions for the security of every civil right.

The political degeneracy of boroughs was even more disastrous, because more directly the result of selfish interests predominating over the public weal. The unscrupulous policy of Tudor sovereigns, in narrowing the municipal constitutions by charters ostensibly designed to confer the parliamentary franchise, was persistently carried out by the Stuarts. It now became a common practice for the Crown to appoint high stewards of boroughs, for the express purpose of bringing Court

influence to bear on their internal government and parliamentary representation. The attempt was so far successful that many of the boroughs lost the very tradition of popular government, and were induced to return members whose servility contrasted unfavourably with the manlier attitude of country gentlemen elected by the counties. This reactionary process was, of course, arrested by the Civil War, in which the middle classes, both in counties and boroughs, generally espoused the cause of the Commons; but it was resumed with still greater energy after the Restoration. Not content with the insidious method adopted by their predecessors to secure the subservience of boroughs, they directly attacked the most powerful and liberal corporations by causing informations of *quo warranto* to be filed against them, and claiming on frivolous pretexts the forfeiture of their charters. Sentence of forfeiture was actually passed by obsequious judges against several municipalities, including the Corporation of London itself; many others anticipated a like sentence by voluntary surrenders; and though new charters were issued, they were framed on an exclusive model, the legality of which had been established by two judicial decisions of Elizabeth's and James I.'s reign. It is true that even the civic oligarchies thus created rebelled against the daring attempt afterwards made by James II. to "regulate" them under these charters, by instructing a Committee of the Privy Council to cancel the names of municipal officers duly appointed and insert others at their discretion. But this outburst of independence was shortlived, and the evil of self-elective Town Councils perpetuated itself in spite of the proclamation by which James himself, in his extremity, assumed to reverse the proceedings of his Courts. The Revolution brought no revival of municipal liberty, and Sir Erskine May states that in George III.'s charters the burgesses are as completely ignored as in those of James II.

The close local juntas, called Town Councils, which had now got sole possession of the sovereign power in most corporations, were too well pleased with it to solicit or tolerate, if they could help it, any return to a more popular system of government. These town councillors, usually elected for life, and conduct-

ing their proceedings with closed doors, soon came to regard municipal office, not as a trust, but as a lucrative inheritance, to be employed, not in promoting the good or in guarding the rights of their fellow citizens, but rather as a convenient engine for maintaining trade privileges and ministering to parliamentary corruption. The only control practically exercised over them was exercised by the great noblemen who could bribe them with Government appointments, for the freemen were generally too small and always too venal a body to resist the overwhelming influences at their command. It would indeed be difficult to believe the extent to which not only the misuse of patronage, but also the misappropriation of public funds, was carried in boroughs which boasted of franchises older than Parliament itself, were they not formally and minutely set forth in the elaborate Report of the Commission on Municipal Corporations. That such a mockery of self-government should have prevailed so widely for more than a century, must ever be a reproach to constitutional monarchy in England, and a warning against a presumptuous reliance on the inherent political virtues of the English people. It could not have prevailed, however, unless it had been mitigated in some degree by the undesigned growth of another form of Local Government, whereby the nominal administrators of boroughs were relieved from many of their functions. So far back as 1684, an enterprising speculator named Hemming had obtained letters patent conferring on him the exclusive privilege of lighting the metropolis by placing lamps on moonless nights before every tenth door. Upon a similar principle, local Acts were constantly passed by the Legislature entrusting independent boards or commissions with the management of lighting, drainage, water-supply, and other matters, which should properly have fallen within the province of Town Councils, but which Town Councils had either neglected or were incompetent to undertake. In most boroughs, however, criminal jurisdiction over minor offences committed within the boundaries still remained vested in the mayor and aldermen or resident justices, with or without the assistance of a recorder, and subject to special provisions in local Acts, letters patent, or charters. When the Reformed Parliament of 1832 opened a

new order of things in Local no less than in National Government, the variety of organization in English boroughs was therefore very great, though not so great as it has since become. The one feature common to all was the grievous decline in that public spirit which constituted the very soul of municipal life in olden times. Even the City of London had not escaped the political blight of the eighteenth century, but the Common Council of London is cited by the Commissioners as a notable example of comparative purity, due to its exceptional immunity from the general rule of self-election.

5. It is a curious and instructive fact, that while the primitive ideal of self-government had thus become obscured both in English counties and in English boroughs, it not only survived, but acquired a fresh vitality, in the colonies of New England. The contrast between the local institutions of these communities before their separation from the mother-country, and the local institutions of Great Britain at the same epoch, furnishes a tolerably exact measure of the degree in which the latter had been diverted from their natural course of development. The New England "towns" were nothing but a reproduction of Anglo-Saxon "townships," with a larger average area, and with a better-defined corporate identity. Their resident inhabitants, or "freemen," like the free suitors of the old town-moot, constituted the electoral body, which admitted new members, chose all local town-officers, such as "constables," "tithing-men," and surveyors of highways, regulated all local taxation, and sent deputies to the "General Courts," which corresponded in most respects with county courts in the plenitude of their independence before the Conquest. Like the townships of Old England, the New England towns were held responsible for their own roads, bridges, and police; but, in accordance with more recent principles of English policy, they were also held responsible for their own poor-relief and education. The example of England doubtless suggested the delegation of jurisdiction to magistrates, instead of to popular assemblies; but a novel precedent of evil augury was set by making these magistracies elective. Old usages and even old names were carefully preserved; there were grand juries and petty juries, militia regi-

ments and district trainbands—nay, even stocks and whipping-posts—just as there were in England under the rule of Cromwell, whose political education and personal views differed little from those of the Pilgrim Fathers. The system thus evolved from the results of English experience, modified by the exigencies of a new settlement, retains its characteristic outlines to this hour in the States of New England; and the study of it may serve to show how little the working of political machinery depends on its outward form, and how much on its inward spirit.

II.

From this point of view, as well as from the purely juridical point of view, the Reform Act of 1832 must be considered the most important event in the history of our Local Government. The Norman Conquest itself, though it ushered in three centuries of feudalism, did not leave so deep a mark on the internal economy of English counties and boroughs as has been left by forty years of progressive but unscientific legislation under a democratic impulse. During this period, all the local institutions of England have been subjected to a more or less complete process of reconstruction, conducted with an absolute disregard of symmetry, on principles equally remote from the caste-like organization of feudal tenures, and from the republican autonomy of Anglo-Saxon village communities. In studying the English system of Local Government in its latest development, it is neither necessary nor desirable to bewilder our memories with all the imperfect and tentative measures by which it has been wrought out. What is essential to bear in mind is that few local institutions of the present day are of indigenous growth; and that even those which are framed out of ancient materials have seldom been recast in the original mould, but rather superimposed upon it, so to speak, by mechanical action. This holds good of county administration, but it still more emphatically holds good of municipal administration, which is no longer capable of being treated under one general view, but must be considered separately, as it regards the metropolis, the corporate boroughs, and the non-corporate urban communities.

1. Of all the numerous territorial divisions upon which the fabric of Local Government now reposes, the largest and the most fundamental is the area of the county. In point of antiquity, it is true, parishes, so far as they coincide with townships, must rank before counties; but counties have maintained both their independence and their integrity, with little variation, from the earliest times, while parishes have been merged, for many administrative purposes, in unions and other artificial combinations. It is well known that counties differ very much both in population and in size; but it is probably realized by few that while Rutland, the smallest, contains but 94,889 acres and 22,073 inhabitants, Yorkshire contains no less than 3,882,851 acres with 2,436,355 inhabitants, and Lancashire 1,207,926 acres with 2,819,495 inhabitants. The average size of counties is 717,677 acres of land; and the average population, according to the last Census, is 436,774; but, whereas the former is stationary, the latter is ever on the increase. The greatest subdivision of the county is that to be found in Yorkshire under the name of Ridings, in Lincolnshire under the name of Parts, in Sussex under the name of Rapes, and in Kent under the name of Lathes. This subdivision, intermediate between the county and the hundred, is not without importance, when it imports a separate commission of the peace; but it represents no separate type of Local Government, and may therefore be dismissed from our present consideration. The hundred itself, however interesting it may be historically, and however we may regret that it was ignored in mapping out the Poor Law unions and other administrative districts, is no longer the second unit of county organization. Hundreds, or "wapentakes," as they are called in the North, are still liable to be rated for damages in case of riot; but this liability is happily little more than nominal, and the remnants of civil and criminal jurisdiction which they long retained have at last been abolished by statute. The same may be said of the wards, liberties, and sokes, which formerly obstructed and complicated the system of Local Government in counties, and some relics of which yet survive in the New Forest and the Stannaries. It would be equally unprofitable to dwell on such arbitrary circumscriptions as the

registration districts and sub-districts, the various inspection districts, the militia districts, or the police districts. These districts have no unity or individuality of their own; they are mere topographical fractions, marked off and varied from time to time as occasion may require, and in no respect to be regarded as constituent parts of the county.

The Poor Law Union rests on an entirely different footing. It may be said to derive its origin from the Gilbert Act already mentioned, the principles of which were embodied and vastly extended by the Poor Law Amendment Act of 1834, until the whole of England and Wales has been overspread by a network of 647 unions, three of which are, technically, incorporated hundreds, and twenty-five single parishes, under separate Boards. The rest are grouped, for the most part, round market towns, and consist on an average of twenty-three civil parishes, or townships. Not only are these unions the basis of modern poor law administration, but they have been made by a recent enactment, the basis of sanitary administration in rural localities, and have gradually come to be treated as the main secondary areas of Local Government. They are not, however, as the hundreds were, living and solid links between the county and the parish, nor are they even integral sections or departments of counties. On the contrary, their boundaries must be largely rectified, to bring within the compass of single counties no less than 250 unions, which are now situated partly in one county and partly in another. They do not coincide with the old petty sessional districts, of which there are 700, exclusive of boroughs, with a separate commission of the peace; neither have they afforded convenient lines of demarcation for the new highway districts. Moreover, constant readjustments will be necessary, to prevent growing boroughs from overlapping agricultural unions, and, though difficulties of this kind are incident to every method of associating urban with rural districts, they have certainly been aggravated in this case by an undue neglect of local ties and landmarks. Fortunately, the principle on which unions have been constituted is elastic enough to admit of indefinite adaptation to any future reforms in Local Government; in the mean time, these motley aggregations of parishes,

linked together by their central workhouses, must be recognized as having become administrative communities of the highest importance.

But the parish itself is still, as it has ever been, the primary and simplest area of Local Government and taxation in rural districts. In most cases, parishes correspond exactly with townships, or "villages"—a popular term, which soon found its way into the Statute Book. In some cases, however, the parish contains several townships, and an Act of Charles II. provided that in the northern counties, where parishes were exceptionally large, overseers of the poor should be appointed in every township or village. Hence the number of civil parishes, now amounting to 15,416, considerably exceeds that of ecclesiastical parishes. No doubt this anomaly weakens the claim of parishes, in the ecclesiastical sense, to be treated as the ultimate and immutable foundation of local institutions. Moreover, the independence of civil parishes has been rudely infringed of late years by the creation of unions with superior powers of poor law management, by the subsequent introduction of union chargeability, by the substitution of county police for parish constables, by the gradual subjection of parish roads to highway boards, and by other steps in the direction of centralization. It would now be too much to say, with Sir Erskine May, that "every parish is the image and reflection of the State," with its miniature aristocracy of the Church and the land, and its miniature democracy of ratepayers assembled, as a parochial commonalty, in vestry meetings. Nevertheless, the parish still retains a substantial remnant of its old corporate life, clinging, as it were, round the parish church or burial ground. Parochial overseers continue, as ever, to be the authorities mainly responsible for the due collection of rates and the accuracy of registers on which electoral qualifications depend for their validity, while the habit of common parochial action is kept up by annual vestry meetings, and the choice of various representative officers—not to speak of less formal, but not less popular, conventions of parishioners at the village club, or on the village green. How far the parish is fitted to be a self-governing community, or even a separate constituency, is a question which

must be reserved for a later stage of our enquiry. Meanwhile, it is material to observe that it occupies, with the county and the union, an actual, and not merely historical, place in the existing system of Local Government in country districts.

The relative dimensions of these three areas are such as practically to determine, in some degree, the nature of their management. The average size of a county, as we learn from the evidence of Dr. William Farr, before the Boundaries Committee, would be represented by a square about thirty-three miles to a side, or a circle of eighteen miles' radius. The superintendence of areas so extensive must often involve long and expensive railway journeys, as well as familiarity with a great mass of details, and will naturally devolve either upon highly-paid officials, or upon gentlemen of ample means and leisure. The average size of the union would be represented by a square of nearly ten miles to a side, or by a circle of about five miles and a half radius. Such an area, usually comprising a small town in its immediate neighbourhood, may easily be traversed on horseback or in a carriage, without the aid of railways, and most of its administrative business can be so arranged as to suit the convenience of farmers and tradespeople resorting weekly to the same market. The average size of a parish would be represented by a square of two miles to a side, or by a circle of little more than one mile radius, so that every part of it can be visited on foot, and the parish officer, knowing every family within it, can discharge most of his duties with no great sacrifice of time or labour.

2. We have now to consider in what persons or bodies the effective powers of Local Government over rural districts are actually lodged, remembering that, according to the census of 1871, rural districts contain above 88 per cent. of the whole population. The chaotic distribution of these powers among a variety of authorities appointed by various methods, upon various tenures, and for various terms, has become an almost proverbial reproach of English administration. Certainly, if compactness and symmetry be the highest merits of organization, nothing more defective could well have been devised. But it must be confessed that, judged by its results, the

system thus established, as it were, at haphazard, does not compare altogether unfavourably either with that scientifically prepared by feudal lawyers, or with that founded on the ruins of feudalism in so many Continental States.

The chief officers of counties are the Lord Lieutenant, the *Custos Rotulorum*, the High Sheriff, the magistrates in the commission of the peace, and the clerk of the peace. The Lord Lieutenant is nominated by commission for life as the military vicegerent of the sovereign in the county, and usually holds the distinct office of *custos rotulorum*, or keeper of the county records, in which capacity he appoints the clerk of the peace. The high sheriff, nominated for one year by the Crown, is the principal civil representative of the sovereign in the county, the custody of which is specially committed to him by letters patent. He is responsible for the due election of coroners and knights of the shire, as well as for the due execution of all writs issued by the superior courts, and is bound, as of old, to guard the proprietary rights of the Crown within his county.

It has already been explained that by successive Acts of Parliament the management of county affairs has been mainly vested in the county magistrates, all of whom are nominated by the Lord Chancellor on the recommendation of the Lord Lieutenant, and are liable to be dismissed by the Lord Chancellor at his own discretion. Being for the most part landowners of ample means, they receive no salary, and a considerable proportion of them enjoy the dignity of their position without rendering any public services whatever. The more important functions of county magistrates are performed by them collectively at Quarter Sessions, under the presidency of an unpaid Chairman elected by themselves. Of their minor functions, some can be performed by a single magistrate, others by two magistrates sitting together at petty sessions. But the magistrates assembled at Quarter Sessions exercise a general control, by way of appeal or revision, over the action of individual magistrates, or of magistrates at petty sessions, and the standing committees of Quarter Sessions, through which they conduct most of their business, are practically so many little departments of State for the Local Government of counties.

The criminal jurisdiction of the court of Quarter Sessions extends to all offences, except a few of the most aggravated, which, by an Act of 1842, are withdrawn from its cognizance, and reserved for the assizes. In practice, a prisoner charged with a crime is brought up in the first instance either before a single magistrate sitting in his own house, or before two magistrates at petty sessions. If the charge be of the lighter class, it may be dealt with in a summary way; if it be of the graver class, and if a *prima facie* case can be shown against the prisoner, he is committed for trial at the Quarter Sessions, where he is regularly indicted and tried by a jury before the Chairman. It may, therefore, be stated broadly that county magistrates in Quarter Sessions have inherited the criminal jurisdiction, together with much of the administrative authority, which formerly belonged to the suitors of the old county-courts, while the county magistrates, sitting without a jury in their several courts of petty sessions, have, to a great extent, taken the place of the popular hundred-courts and courts-leet. On the other hand, the civil jurisdiction of the old county-courts, having been obsolete for many generations, was revived by an Act of 1846, not in the court of Quarter Sessions, but in the new county-courts, which are constituted on a wholly different principle. These courts are really nothing more than provincial branches of the Imperial judicature, since their judges need have no qualification of county residence, and they are directed to be held in circuits which have no relation to county boundaries. They form, therefore, no part of county government, which in this respect, as well as in others, is far less complete and self-contained than it was in Saxon times.

Another important duty of the magistrates at Quarter Sessions is the supervision of the county gaols, the county police, and the county lunatic asylums; all of which, however, are subject to annual inspection, by order of the Home Secretary. County gaols, as we have seen, were definitely placed under the charge of the magistracy in the reign of William III. They are usually managed by a committee of visiting justices, and the maintenance of them is defrayed out of the county rates, supplemented by an allowance from the national Treasury, in respect

of certain prisoners. All the regulations in force within county gaols must be sanctioned by the Home Secretary, to whom also reports on their condition are annually transmitted. The county police force was finally established by a statute of 1856, for which the way had been paved by various permissive or local Acts. For instance, the Lighting and Watching Act of 1830 enabled parishes to appoint paid watchmen and levy a watch-rate, while an Act of 1831 enabled two justices, on an emergency, to appoint special constables, and make them allowances out of the county-rate. But the County Police Force, under the command of a Chief Constable appointed by the county magistrates, and of district superintendents chosen by him, has now entirely superseded, in rural districts, the old elective high constables of hundreds, and petty constables of parishes. It is no longer optional with the magistrates of each county whether they shall adopt the new system, inasmuch as the Queen in Council is empowered to enforce its adoption; but it is they who levy the county police-rate, to supplement which the national Treasury contributes an equivalent sum, according to a provisional arrangement made in the session of 1874. The expense of maintaining county asylums for pauper lunatics was divided at the same time, on a very similar principle, between the national Treasury and the ratepayers of the county, who are thus relieved of local charges to the estimated amount of £1,250,000. The management of these asylums is legally vested in the whole body of county magistrates, but in most counties the practical regulation of them, as of the county gaols and constabulary, is habitually entrusted to a separate committee of Quarter Sessions. Another committee regulates county finance and taxation, of which annual returns must be transmitted to the Local Government Board (hereafter to be described), and must be laid by its President before Parliament. Thus it will be seen that, while many of the most representative powers of county government, and even the power of imposing taxes, have been absorbed by a non-elective body of county magistrates, they have also been more or less effectually brought under the control of the Central Administration.

There are various other powers of Local Government belong-

ing to county magistrates, some of which are exercised independently of the Imperial Executive, and some in subordination to it; some by magistrates acting with undivided authority, and some by magistrates acting conjointly with elected deputies of the ratepayers. Perhaps the most despotic of these powers, because exercised by magistrates exclusively and irresponsibly, is the power of granting and renewing licenses to houses for the sale of intoxicating liquor. Under the old licensing system, dating from the reign of Edward VI., but mainly regulated by a statute of George IV., public-house licenses for rural districts were granted or refused on annual applications before two magistrates at special Petty Sessions, from whose decisions an appeal lay to the Court of Quarter Sessions. By the recent Act of 1872, the right of refusing licenses without appeal was reserved to the Petty Sessions, but it was provided that every fresh license must come for confirmation before a special committee of the Quarter Sessions, instead of before the whole court. The degree of practical influence for good or evil involved in the discharge of this single magisterial duty can hardly be overstated. It is a striking proof of the change which has passed over the spirit of Local Government in modern days, that so little discontent should have been excited in rural districts by the spectacle of non-representative lawgivers determining not only how many public-houses are sufficient for the wants of each locality, but whether each public-house shall possess a local monopoly, or be subjected to depreciation by the competition of new licenses. Under the Licensing Act of 1874, it is true, magistrates are ostensibly relieved of the discretionary responsibility as to hours of opening and closing which oppressed them for two years; but they are burdened with the still more onerous responsibility of declaring what is or is not a "populous place," in which publicans and their customers may enjoy greater liberty than is permitted in mere villages. Another instance of unlimited magisterial authority may be found in the statutable powers under which the movements of cattle may be prohibited during the prevalence of cattle-plague. However salutary these powers may have proved in their operation, they are assuredly such as our forefathers would never have confided to nominees

of the Crown, without the assistance of elective officers. It would not be difficult to cite other cases in which the State imposes no check, beyond the liability to dismissal, on the paternal despotism of county magistrates. As fast as new social wants have arisen, new powers have been accumulated upon them, for want of any other convenient depository, until the magisterial Bench may be said, generally, to act as both the driving-wheel and as the regulator for the entire machinery of Local Government within each county, except in respect of Highway, Poor Law, and Sanitary administration, where it shares its authority with representatives of the people.

It was only by slow degrees that counties acquired full jurisdiction over the highways within them, from the humblest parish roads up to the great turnpike roads which, before the spread of railways, formed the main arteries of internal communication. Bridges, it will be remembered, have been under county management from time immemorial; and the obligation to repair them, originally part of the *trinoda necessitas*, still attaches to counties. On the other hand, at Common Law the obligation to repair all public roads, bridle-paths, and foot-paths attaches, with certain exceptions, to parishes. By an Act passed in 1778, the power of enforcing this obligation had been lodged in the hands of justices at Petty Sessions. By another Act, passed in 1835, further provision was made for the annual election of surveyors of highways by parish vestries; but the formation of Highway districts, by order of Petty Sessions, with the consent of the parishes concerned, was materially facilitated. By an Act passed in 1862, this policy was carried much further, and the magistrates of each county were enabled to divide it, according to their own judgment, into Highway districts. These districts, however, were to be governed not by magistrates only, but by mixed boards consisting partly of resident justices as *ex-officio* members, and partly of waywardens returned by the constituent parishes. This Act, under which 724 Highway districts have already been formed, was not made compulsory, and can only be applied to parishes which previously maintained their own highways under the care of surveyors, and which are not governed by a local Board of Health. There are a few

counties and parts of counties in which it has not been hitherto adopted, whereas in South Wales it has been anticipated by an earlier statute, under which a special committee of magistrates is associated, for the management of highways, with representatives of the ratepayers. The result is said to be that in South-Welsh counties the selected magistrates take a more leading part in the oversight of highways than is taken by English magistrates, as *ex-officio* members of highway boards, in most counties where the Act is in force. Since the gradual expiration of turn-pike trusts is constantly extending the jurisdiction of these boards, and sanitary legislation can hardly be carried out thoroughly without their concurrence, it is not improbable that a large proportion of county business may hereafter be attracted within the sphere of their activity.

The Board of Guardians, however, must for the present rank next to Quarter Sessions, as a centre of Local Government in rural districts, while it is still more worthy of study as the great meeting-point of magisterial and representative authority. The amendment of the Poor Law, as is well known, was among the first and most arduous of the legislative tasks achieved by the Reformed Parliament of 1832. The startling rise of poor rates until they reached a total of between £8,000,000 and £9,000,000, the gross abuses of outdoor relief in aid of wages, the notorious prevalence of jobbery in the management of poorhouses, and the entire want of uniformity in Poor Law administration, arising from the want of guidance from a central office, forced the Legislature into an effort of reconstruction which, modified by many subsequent Acts, has developed a new type of local organization. This organization is regulated, to an extent and in a sense unknown in ancient times, by the Local Government Board, as successor of the Poor Law Board. As the Poor Law Board constituted unions at its own discretion, so the Local Government Board may dissolve unions, by a mere departmental order. The Board may also remove any paid officers at pleasure, or appoint officers if the guardians fail to do so; it may lay down binding rules for outdoor and indoor relief, for the education of pauper children, for the preparation of accounts, and for the general execution of the Poor Laws. Subject to this para-

mount control, each board of guardians, consisting of *ex-officio* and elective members, is the one deliberative assembly and administrative authority within its own union. The *ex-officio* members are the county magistrates residing in the union, who must not exceed in number one-third of the whole board; the elective members, whose number and qualification is fixed by the Central Board, are chosen annually by the ratepayers and owners of property in the constituent parishes. Owners of property must send in their claims before the election, whereas the ratepayer's franchise depends on his name having been on the rate-book for a year. The number of votes assigned to each owner or ratepayer is proportioned to his rateable property, according to a scale of plural or multiple voting, up to a maximum of six votes; and an appeal against excessive rating may be made, in the first resort, to magistrates in petty sessions, and in the last resort to the Quarter Sessions. By the Poor Law Amendment Act of 1884, parishes were laid under contribution for the erection and maintenance of union workhouses, but remained separately chargeable for the indoor as well as for the outdoor relief of their own poor. By the Union Chargeability Act of 1865, the main cost of the poor relief was thrown on the common fund of the union, so as to weaken the selfish motives of landowners for omitting to provide sufficient cottage accommodation on their own estates.

In most unions the Board of Guardians meet fortnightly or weekly, under the presidency of a chairman, who is often a county magistrate, deriving additional weight from territorial influence; sometimes a clergyman elected by his parishioners; and sometimes a farmer or tradesman. Its business consists mainly in the general supervision of the workhouse, and in the regulation of outdoor relief, which is given directly through its relieving officers. It is in respect of this last function that not only the practice, but the policy, of various boards of guardians differs most widely. In some, the percentage of able-bodied paupers is infinitesimal, owing to a judicious discrimination of cases; in others, perhaps adjoining the former, or where the local circumstances are precisely similar, a direct premium is set upon improvidence and a heavy discount upon thrift among

agricultural labourers, by a reckless distribution of outdoor relief. Nor is this mischievous expenditure always disinterested; for it may happen that a guardian of the shopkeeping class is himself a creditor of the applicant for outdoor relief, and prefers keeping even a struggling family on his books to losing all its custom by consigning it to a workhouse. This is not the place to estimate the general result of Poor Law administration by semi-elective boards of guardians. It is enough to point out that, considering the number of persons affected by it, and the depth to which its influence has struck downwards into the social life of the English peasantry, the boards of guardians, as dispensers of public charity, practically wield a larger power over the character and condition of the people than belongs to any other public body, or was possessed by the county courts themselves when Poor Laws were unknown.

It is these same boards that have been constituted the sanitary authorities in rural districts by the Public Health Act of 1872. In ancient times, as we have already seen, there was no preventive system for the protection of public health, though each parish vestry, through its surveyor of highways, was supposed to put down nuisances; and special penalties were imposed, by an Act of Richard II., on persons guilty of polluting rivers. The Commissioners of Sewers, who superseded old elective officers called dyke-reeves, for some centuries exercised an incidental sanitary jurisdiction, with power of levying sewer rates; but this jurisdiction was confined to surface drainage in certain marshy localities. The existing sanitary code really begins with the Public Health Act of 1848. By that Act, the inhabitants of rural parishes, as well as of towns, were enabled, but not compelled, to place themselves under local boards of health, to be elected on the same principle as Poor Law guardians, for the superintendence of sewerage, drainage, and sanitary arrangements in private houses, as well as of water and gas supply, over areas to be established for the purpose by a new General Board of Health. The new sanitary circles thus established, with a reckless disregard of existing boundaries, include many country villages; and it is material to remark that agricultural land, canals, and railways, within their compass

are expressly exempted from three-fourths of the sanitary or "general district" rate leviable by the local boards. Practically, however, notwithstanding the special proviso making the Public Health Act of 1848 applicable, *ipso facto*, to places with a death-rate above 28 per 1000, neither that Act nor the supplementary Local Government Act of 1858 was applied in any considerable degree to rural districts. Before 1872, the health of rural districts was for the most part under the guardianship of parish vestries, elevated into "sewer authorities" by the Sewage Utilisation Act of 1865, and the Sanitary Act of 1868, which must be read together with a series of Nuisance Removal Acts, whereby the boards of guardians were made nominally responsible for the removal of nuisances in rural districts. The joint result of all this intricate and incoherent legislation was such as might have been foreseen. The Sanitary Commission found that "boards of guardians seldom seem aware that the removal of nuisances in country places is entrusted to them; and vestries are generally unconscious of the important sanitary duties resting on them; nor does the Central Power seem sufficient to rouse these various bodies to the proper execution of their duties." The Report of this Commission was immediately followed by the Local Government Board Act, which created a new Department of State under that name, vesting in it all the powers and functions of the Poor Law Board, together with all those of the Home Secretary in regard to public health, improvement of towns, and some other matters, as well as those of the Privy Council in regard to vaccination and the prevention of disease. The next fruit of the Sanitary Commission Report was the Public Health Act of 1872, which now remains to be explained more fully, so far as it concerns rural districts, since it is the law which regulates not merely their sanitary affairs, but also a great part of their ordinary internal economy.

The whole country has at last been exhaustively parcelled out into urban sanitary districts and rural sanitary districts, the latter of which can only be defined, by reference to the former, as districts which are neither boroughs, nor "Improvement Act districts," nor "Local Government districts," and probably contain nine-tenths of the villages in England and Wales. Where

a Poor Law Union happens to comprise no place wholly or partially constituting an urban sanitary district, the union itself is a complete rural sanitary district; and its board of guardians is the one sanitary authority within it, combining the functions of a "sewer authority" and a "nuisance authority." Where a Poor Law Union partly composed of country villages also comprises places belonging to some urban sanitary district, the non-urban residue of the union constitutes a rural sanitary district; and though its sanitary authority is the board of guardians, the urban members of the board, as they may be called, may take no part in managing it. The consequence is, that in the great majority of unions the board of guardians has no longer an indivisible corporate existence; for, whereas the whole board acts together as a Poor Law authority, only a select portion of it can act as a rural sanitary authority. It is, however, expressly declared, by an Amendment Act of 1874, that, notwithstanding this restriction, the board of guardians acts in one and the same capacity, whether the orders which it makes relate to sanitary administration or to Poor Law administration. Each sanitary authority, urban or rural, is bound to appoint a medical officer of health, who is often the so-called "parish doctor;" and rural sanitary authorities are also bound to appoint inspectors of nuisances, clerks, and treasurers, but their powers do not extend far beyond the removal of nuisances, and fall very far short of those committed to urban sanitary authorities in respect of such matters as framing bye-laws for the erection of houses. On the other hand, the Act contains several provisions designed to mitigate the difficulties inseparable from the exercise of sanitary jurisdiction, by a body elected for other purposes, over a conglomeration of scattered parishes, intersected by urban districts under a different sanitary rule. The rural sanitary authorities may delegate their commission for the current year either to a select committee of their own members or to parochial committees; and the Local Government Board may, by provisional order, either merge any one sanitary district in any other sanitary district, or convert a rural sanitary district into an urban sanitary district. It would further appear that, under another section of the Act, rural sanitary authorities are given a

perfectly unlimited power of aggregating themselves, with the consent of the Local Government Board ; and that it would even be legally possible for that Board, at the instance of a single union, to combine all the rural parishes in the county under one sanitary authority. The Local Government Board was, moreover, empowered to appoint a staff of inspectors, who should have the right of attending all meetings held by rural sanitary authorities, and of instituting the most searching inquiries into the sanitary condition of all "places required to be inspected." In case any rural sanitary authority should make default in doing its duty, the police were enabled to commence proceedings against it ; and the Amendment Act of 1874 imposes a penalty of five shillings a day on any rural sanitary authority failing to abate any nuisance of which proper complaint shall have been made. It is almost needless to say that very few boards of guardians as yet discharge efficiently all the sanitary obligations thus cast upon them. But it is certain that a powerful impulse has been given to sanitary reform in the most backward rural districts, and it is evident that a system at once so flexible and so highly centralized may insensibly modify the local institutions and habits of rural districts to an extent altogether beyond the range of sanitary reform.

Another recent statute, of still wider significance, has created another new form of Local Government in rural districts, of which the force radiates, not from the union, but from the parish. The importance of the parish, as an ecclesiastical unit, had been indirectly enhanced by the marvellous progress of popular education during the present century, even before the Education Act of 1870. By the joint action of voluntary societies and the State, a parish school had been attached to almost every village church, forming a fresh nucleus of parochial life, and giving an honourable *status* to a fresh parochial officer, in the person of the schoolmaster, who, being usually certificated and partly remunerated by the State, was at least equal in dignity to an overseer, a churchwarden, a waywarden, or a guardian, if he did not sometimes rival the incumbent himself. The Education Act of 1870 stereotypes the educational independence of rural parishes by making each a distinct school

district, responsible for the school accommodation of all its children within the school age. It virtually rests with the parishioners to supply the necessary minimum of accommodation by private subscription, or to establish an elective School Board with rating powers, and the Education Department can enforce the adoption of the latter alternative upon a defaulting parish. In most instances, rural parishes have satisfied the requirements of the statute without having recourse to a School Board, and where such boards have been elected, they have usually consisted, as they could not but consist, of much the same elements as the old committees of management. But the sense of parochial unity has been greatly strengthened by the efforts made to escape the necessity of a School Board in the one case, no less than by the formation and action of the School Board in the other case. If the Poor Law Amendment Act, the Sanitary Act, and the Highway Act, have *pro tanto* reduced the parish to a mere factor of the union or highway district, the Education Act has contributed to reinstate it—not, indeed, in the position which it occupied when it was the cradle and the nursery of English Local Government, but in the position which it occupied relatively to other decaying centres of Local Government in the evil days before the Reform Act of 1832.

3. We must now revert to urban communities, and glance rapidly at the great legislative changes wrought in their municipal administration since that momentous epoch. The Reform Act itself had paved the way for a thorough reconstitution of borough corporations, by disfranchising the smallest and most corrupt of them, by extending the boundaries of many others, by enfranchising great towns which had remained outside the pale of representation, and by conferring the suffrage, theretofore monopolized by freemen and other privileged classes, on the unprivileged mass of ten-pound householders. The Municipal Corporations Act of 1835, proceeding on the same broad lines of policy, imposed upon all boroughs one constitutional form of government, identical in all its essential features with that which a few model boroughs already possessed. The governing body established by the Act for all boroughs enumerated in the schedule, and all which should afterwards be incorporated under

its provisions, consists of a mayor, aldermen, and councillors, who together constitute the Town Council. The councillors are elected directly by the burgesses—that is, by the occupiers whose names are on the burgess-roll, or on a separate list to be kept for persons resident within a certain radius, being qualified by two years' residence and payment of rates. The prescriptive rights of freemen have been carefully preserved, but it was provided by the Act that no such rights should be acquired in future by gift or purchase. The councillors must be qualified as burgesses, and must also be occupiers of rateable property to an amount varying with the size of the borough. They hold office for three years, so that one-third of the number retire annually on November 1st, but they are re-eligible, and frequently offer themselves for re-election. The aldermen are elected by the councillors from among themselves for a term of six years, one-half of their number retiring every third year, and since they can vote for their successors, it is found in practice that a party which has once been strong enough to return a large majority of aldermen, is not easily dislodged from its supremacy on the Town Council. The mayor is also elected by and from the Town Council; his term of office is annual, and it commences with the 9th of November. The town clerk, borough treasurer, and other officers, are appointed by the Town Council, which is empowered to make bye-laws for the government of the borough, to manage the lighting of streets, and to maintain order through a watch committee with a force of borough constables under its command. These elementary powers of Local Government, which had previously been entrusted in many boroughs to separate commissions, were thus replaced in the hands of the recognized borough authorities, subject, however, to special Acts, which in some boroughs still perpetuate a mischievous division of administrative responsibility.

By the Municipal Corporations Act of 1835, no magisterial jurisdiction was vested in the Town Council, as such, though an exception was made in favour of the mayor and ex-mayor, who are *ex-officio* justices of the peace. All the judicial attributes claimed by various municipal officers in various boroughs, under various charters or customs, were entirely swept away, and the

Crown now appoints all borough magistrates, except in the Cinque Ports, and one or two other privileged towns. In most boroughs which have a separate commission of the peace, the magistracy is unpaid, but in some large towns the Town Council has exercised its right under the Act of moving the Crown to appoint a stipendiary magistrate, whose salary is paid by the borough. The council of any borough may also petition the Crown to grant it a separate court of Quarter Sessions, which is thereupon invested with all the criminal and much of the civil jurisdiction belonging to courts of Quarter Sessions for counties. This jurisdiction, however, is no longer exercised by the borough magistrates collectively, as it was in boroughs which had a separate commission of the peace before the Act of 1835. On the contrary, it is now delegated to a paid judge, called a recorder, and, with slight exceptions, the powers retained by the borough magistrates are precisely those which belong to county magistrates at petty sessions. Thus, it is the borough magistrates who, under the Act of 1872, grant public-house licenses, but licenses so granted by two borough magistrates are not valid until they have been confirmed by the whole body. The great advantage enjoyed by those boroughs which have not only a separate commission of the peace, but a court of Quarter Sessions, is the right of maintaining a borough gaol, with an immunity from the interference of county magistrates, and from the county gaol rate. In boroughs which have a separate commission of the peace, but no court of Quarter Sessions, the county magistrates frequently possess concurrent jurisdiction with the borough magistrates, and in boroughs which have neither, their jurisdiction is as exclusive as it is over rural districts. Nor is it unusual for the police force, in the smaller boroughs, to be amalgamated, as the law already permits, and as it will probably soon require, with the police force of counties.

All the legitimate expenses of municipal government in boroughs are defrayed either from the income of corporate property, or by means of a borough rate. In some boroughs, the corporate property is sufficient to cover the whole charge, and it is expressly enacted that if there be any surplus, it must be devoted, not as of old, to private benefactions and jobbery,

but to the benefit of the inhabitants, and the improvement of the town. In most boroughs, however, a borough rate is regularly levied, in the same manner as a county rate, and the occupiers of agricultural land have no such partial exemption from it as they enjoy in the case of a "general district rate" imposed by a sanitary authority. The objects to which it is applied in a typical borough are specified in a "demand note" issued, in April, 1874, by the overseers of Birmingham, where the borough rate is collected with the poor rate, and happens to be very nearly equal with the cost of poor relief. The borough rate of Birmingham is explicitly stated in this "demand note" to include "the school board rate and the maintenance of the police force, borough gaol, lunatic asylum, baths and washhouses, public libraries, parks, and cemetery," besides liabilities for "general expenses." These "general expenses" comprehend, as a matter of course, the expense of paving, lighting, sewerage, and town improvements of all kinds, whether sanitary or merely conducive to public convenience. Birmingham, it is true, is partly governed under local Acts, and perhaps there are not many boroughs in which so many public institutions are directly supported out of the borough rates. Still, this example may serve to illustrate the multiplicity of items which make up the local budget of a large borough, over and above the simpler necessities of Local Government which are common to large boroughs and small villages.

In considering the mode in which the business of municipal government is conducted by Town Councils, it must be kept in mind that England and Wales contain, at present, 227 boroughs, some of which, and especially the smallest, exhibit special complications in their constitution. We have already noticed the ordinary functions of a Town Council under the Municipal Corporations Act of 1885, but other functions, either permissive or compulsory, have been assigned to it by subsequent legislation. Such are the powers whereby it can regulate markets and fairs, weights and measures, the construction of buildings, the safeguards against overcrowding, the establishment and maintenance of free libraries, borough parks, and cemeteries. These and similar powers of administration are practically confided, in

well-governed boroughs, to separate committees of the Town Council, analogous to committees of Quarter Sessions. The same machinery is naturally employed for the management of municipal gasworks, waterworks, docks, or harbours, in boroughs which, under general or special Acts, have authorized their Town Councils to acquire and superintend any of these concerns on their behalf. It is somewhat remarkable that no special powers for sanitary purposes were conferred on Town Councils by the Municipal Corporations Act. But this omission has been more than repaired by the Public Health Act of 1848, the Local Government Act of 1858, and the Public Health Act of 1872, the first two of which permissively constitute, while the last imperatively constitutes, these bodies the sanitary authorities within such boroughs as do not form part of a larger district under an Improvement Commission or a Local Board. In this capacity, they have almost supreme power over main sewerage, the drainage of private dwellings, water and gas supply, slaughter-houses, baths and washhouses, common lodging-houses, offensive trades, burial-grounds, and other sanitary matters. In boroughs which had adopted the Local Government Acts before 1872, all expenses incurred by the Town Council for these sanitary purposes are payable out of a general district rate. In boroughs which had not adopted those Acts before 1872, the sanitary expenses of the Town Council, then formally designated as the sanitary authority, are payable out of the borough funds or borough rate. The chief difference is that, whereas in the former case agricultural land is rated, as already explained, at one-fourth of its real value, in the latter case it bears its full share of sanitary burdens. Speaking generally, then, we find two distinct executive boards within each large borough—the borough magistracy, exercising the judicial and quasi-judicial powers of county magistrates, with the aid of a recorder, and the Town Council, exercising larger administrative powers than county magistrates possess, or than are required for rural districts, either as the governing body of the municipality, or as the sanitary authority of an urban sanitary district. Sometimes the boundaries of the borough coincide, or nearly coincide, with those of a poor law union, or of a parish so large as to be

organized on the same plan as a poor law union. Under these circumstances, there will be a board of guardians, side by side with the magistracy and the Town Council, which may frequently require their co-operation for the efficient discharge of its duties, and must always be in financial contact with them, in so far as the borough rate and poor rate are collected together by the same parochial officers. At the same time, it would be erroneous to regard urban boards of guardians as having any organic connection with the local government of boroughs, inasmuch as they represent unions in which urban and rural communities are usually intermingled, and administer poor relief on uniform principles, equally applicable to both.

If we now compare boroughs with counties, it is manifest that boroughs enjoy a much larger share of self-government, legally derived from their ancient corporate franchises, but justified by the exigencies of a crowded population, for which the Legislature has provided by a multitude of incongruous enactments. It is no less certain, that if we could examine the local institutions of these 227 municipalities, one by one, we should discern a much greater diversity in their spirit and operation than exists between the local institutions of Yorkshire and Rutland, or any other two of the fifty-two counties in England and Wales. Not only does the administration of a borough with some hundred thousand inhabitants differ, of necessity, both in scale and in nature, from the administration of a borough with five or ten thousand inhabitants, but, in spite of the levelling policy embodied in the Municipal Corporations Act, differences of local history, of local situation, and of other local circumstances, make themselves sensibly felt in the Local Government of boroughs equally large and populous. No anatomical resemblance of outward structure can assimilate the inner municipal life of quaint old cathedral cities with that of new and fashionable watering-places, that of sea-ports with that of inland towns, that of manufacturing or mining settlements with that of market towns in the midst of agricultural neighbourhoods. The distinctive characteristics of each may be scarcely visible to an official eye, but they are always deeply stamped on its social features, often reflected in peculiarities of

its municipal constitution, and sometimes rudely exposed to view in election enquiries.

4. There are two other classes of urban communities, which are expressly distinguished from boroughs in the Public Health Act of 1872, as possessing a lower degree of corporate organization. Of these nascent or half-developed municipalities, the most rudimentary are towns under so-called "Improvement Commissions," established by special Acts of Parliament, which are interpreted and extended by the General Consolidation Act of 1847. Such commissions, as we have already seen, exist in some incorporated boroughs, and continue to exercise the functions originally allotted to them, side by side with the Town Councils. It was stated by Dr. Farr, in his evidence before the Boundaries Committee, that out of eighty-eight towns under improvement or other commissions, thirty-seven were also municipal boroughs, the remaining fifty-one being towns which had not yet attained the dignity of municipal incorporation, and in which the commission was, therefore, almost the only visible symbol of local authority. Towns of this class, however small, differ from mere rural parishes, not only in having a governing body capable of making effective arrangements for paving, lighting, drainage, and water supply, but in being constituted "urban sanitary districts" by the Public Health Act of 1872, instead of being merged in the surrounding unions. But they have no independent magistracy or police, nor would they be exempt from the highway jurisdiction of the county, unless by virtue of express provisions in their local Acts. Hence it sometimes happens that places already under Improvement Commissions apply for the sanction of the Local Government Board, in order to create themselves Local Government districts.

These districts form the second and more important class of urban communities below the rank of boroughs, and have rapidly multiplied in the northern counties. No less than 721 town populations (including 146 boroughs) were stated to have been placed under local boards up to the year 1873; and the last report of the Local Government Board shows that twenty-six were added in the course of that year. Very ample sanitary powers, together with the exclusive management of highways,

were conferred on these boards, originally called boards of health, by the Public Health Act of 1848. The Central Department was to fix a certain number of substantial householders to compose each local board; but the members were to be elected by the ratepayers, on the principle of multiple voting, for a term of three years, one-third retiring annually. By the Local Government Act of 1858, and supplementary enactments, these boards were further armed with nearly all the general powers of Local Government, except those of judicature and police; and in those boroughs which have both local boards and Town Councils, the preponderance both of prestige and of real authority sometimes rests with the former. In 1858, it is true, the compulsory application of the Public Health Act was abolished, but in 1866 a far more arbitrary discretion was lodged in the hands of the Home Secretary, who might coerce defaulting local boards of health by appointing some person to perform their duties for them in the last resort, and obtain an order from the Court of Queen's Bench to enforce the payment of costs and expenses. This, with all other branches of the Home Secretary's jurisdiction over sanitary matters, is now transferred to the Local Government Board, which has, in theory, an almost unlimited control of local government districts, and whose inspectors may attend any meetings of local boards, though not of Town Councils or improvement commissioners. In case a local board should persistently remain in default, the Local Government Board may either enforce its order by *mandamus*, or cause the necessary works to be executed at the expense of the ratepayers. In fact, however, the Local Government Board has seldom attempted to exert its right of intervention except by way of remonstrance and warning. After local government districts have once been formed, they rate themselves and govern themselves with almost as much freedom and variety as boroughs, to which they have been assimilated more closely than ever, for all sanitary and quasi-sanitary purposes, by the Public Health Act of 1872.

5. The position of the Metropolis among urban communities is, in many respects, entirely unique. It is well known that the City of London was specifically exempted from the operation of the Municipal Corporations Act, partly, no doubt, in deference

to its overwhelming capacity of resistance, but partly out of respect for its great historical traditions and comparative purity of administration. The consequence is that a district containing but 640 acres, situated in the heart of the Metropolis, continues to be governed by a Corporation framed on the genuine mediæval pattern, and retaining an independent civil jurisdiction which is a veritable remnant of the private "sokes," or franchises, long since extirpated in other parts of the kingdom. It contained in 1871 a "sleeping population" of 74,494, and is divided into 26 wards, and 108 parishes, eleven of which lie without the walls, but within the liberties. The chief municipal officers of the City are the Lord Mayor, 26 Aldermen, 206 Common Councilmen, exclusive of the Aldermen, two Sheriffs (who jointly hold the shrievalty of Middlesex), a Recorder, a Common Serjeant, a Chamberlain, and a Town Clerk. The Lord Mayor, who must be an alderman, and must have served in the office of Sheriff, is elected for one year, on the 29th of September, by the Livery—that is, by the members of the 76 Livery Companies, amounting in all to about 7000, who exercise their right by presenting two names to the Court of Aldermen. Of the persons thus designated, the Court of Aldermen nominates one, generally the one whose name stands first, and this nomination is further confirmed by the Crown, for which purpose the Lord Mayor proceeds to Westminster Hall on the 9th of November, and receives the royal approval from the Lord Chancellor. The Aldermen are elected for life, one in each ward, according to the custom of the City of London, by a body of freemen, amounting in all to about 20,000. Every alderman is a justice of the peace for the City of London, and presides in the assembly of his own ward, called the wardmote, by which the Common Councilmen are elected annually on St. Thomas's Day. The Lord Mayor presides over meetings of the Common Council, and the aldermen form part of that assembly. The Sheriffs are chosen annually by the Livery, and there is a Sheriff's Court, which has cognizance of personal actions under the provisions of the London Small Debts Act. But the most important civil tribunal in the City of London is the Lord Mayor's Court, of which the Judge is the Recorder, who is elected for life by the aldermen, and whose place is

usually filled, in his absence, by the Common Serjeant. This Court is so far co-ordinate in rank with the Queen's Courts at Westminster that writs of error from it are carried directly to the Exchequer Chamber; and though, under a recent Act, there is an appeal from its legal jurisdiction to one of the Superior Courts, it is said that the appeal from its equitable jurisdiction lies directly to the House of Lords. The Lord Mayor also sits as Chief Magistrate in the Mansion House police-court, as one of the Aldermen sits in the Guildhall police-court, and the Lord Mayor sits with the Aldermen and the Recorder at the London Sessions, which are held eight times a year, and at which Her Majesty's judges occasionally preside. The police force of the City and liberties is distinct from the Metropolitan Constabulary, being commanded by a Commissioner, who is appointed by the Common Council, subject to the approval of the Crown. The City has, moreover, a separate Commission of Sewers, the members of which are appointed by the Corporation, and which regulates drainage, and matters affecting public health, with the assistance of a medical officer, besides superintending the repairs of streets. Nor is the administrative authority of the Corporation limited by the City boundaries, for the Lord Mayor is *ex-officio* chairman of the Thames Conservators, six of whom, besides himself, are elected by the Common Council, and in whom, by an Act of 1866, was vested a very extensive jurisdiction over the river and port of London.

The gross revenue of the Corporation from all sources is stated in the last Report of the Local Government Board as having amounted in the year 1871 to £1,299,767, "of which £755,414 appears to have been raised by taxation, as rates, rents, tolls, duties, or fees." About £50,000 of this sum was derived from police or ward rates, nearly £200,000 from tolls or markets, and above £300,000 from coal duties. As the City of London is specially exempted from making returns of municipal income and expenditure to Parliament, these statistics mainly rest on the authority of abstracts issued by the Corporation, and the Local Government Board has no official cognizance of its financial administration. We learn, however, from a balance-sheet issued for 1872, that in that year the "expenses of civil

government" amounted to nearly £40,000, besides above £17,000 awarded in "donations, pensions, and rewards;" that £15,000 was spent in nearly equal portions on education and the administration of justice; £20,000 on the erection of a new library and museum; above £170,000 in the construction of a new Foreign Market; above £100,000 in the construction, improvement, and maintenance of other markets, and a very large sum on management and collection.

The vast area outside the City boundaries, but within the Metropolitan District of the Registrar-General, contained in 1873 an estimated population of 3,810,744. It extends into four counties, encloses nine Parliamentary boroughs, and comprises ninety-five registration parishes, three of which number collectively more than 600,000 inhabitants. Under an Act passed in 1855, the local government of this immense "province covered with houses" is mainly divided between thirty-eight select vestries, or district boards, and the Metropolitan Board of Works. The smaller London parishes (exclusive of the City) are grouped together under district boards, to which the vestry of each parish returns members in proportion to population. The larger parishes are distributed, after the manner of boroughs, into several wards, to each of which members are allotted, according to its size. The electoral body consists of the ratepayers, and the members of vestries or district boards are elected, like town councillors, for three years, one-third retiring annually. The vestries and district boards have the general charge of branch drainage, as distinct from main drainage, of buildings, streets, lighting, water-supply, and sanitary arrangements, with power to levy parochial rates for these purposes. It was shown by a Return printed in 1872 that, during the period from 1856 to 1870, the vestries and district boards had executed works of sewerage, paving, and other improvements, to the amount of £7,212,319. The main drainage of the whole Metropolis, including the City, was entrusted by the same Act to a new body, entitled the Metropolitan Board of Works, and this body is responsible for the execution of improvements for the common benefit of all London, with power to levy a "Metropolitan Consolidated Rate;" besides

which, it receives above two-thirds of the metropolitan coal duties, and the whole of the wine duties. It is composed of forty-six members, three of whom are elected by the Common Council of the City, and the rest by the vestries and district boards, for the same term, and upon the same conditions of retirement, as the vestrymen. Its meetings are public, and are held on Friday in each week, except during vacations. A great part of its business, however, is transacted through committees, the various titles of which sufficiently indicate the multiplicity of duties, over and above the great work of main drainage and the Thames Embankment, which successive Acts of Parliament have cast upon the Metropolitan Board. Thus, besides the Works and General Purposes Committee and the Appeal Committee (which are committees of the whole Board), the Finance Committee, and the Parliamentary Committee, there is a Fire Brigade Committee, to carry out the duty of protecting the whole Metropolis against fire, which the Board was required to undertake in 1865; a Building Act Committee, to enforce the Acts of 1855, 1860, 1861, and 1869, against overcrowding and dangerous structures; a Parks, Commons, and Open Spaces Committee, for the preservation or management of public recreation grounds in or round London, under eleven different Acts; a Cattle Diseases Act Committee, to guard against the importation of infected animals from abroad, under an Act of 1869; and a Special Committee engaged in prosecuting experiments in the ventilation of sewers. Even this list does not exhaust the responsibilities of the Metropolitan Board, which, like the Privy Council, has been charged with a multitude of miscellaneous powers for which no other convenient trustees could be found—having, for instance, the control of metropolitan tramways, and being made arbiter as to such matters as the proportion of parochial contributions towards ordinary roadways in more than one parish, and the adjustment of parochial divisions. The annual expenditure of the Board on these various accounts has averaged about £350,000 during the last seven years, and its net actual debt at the end of 1873 was nearly £9,000,000, or, allowing for prospective recoupments, £7,728,374.

The Metropolitan Police District, which comprehends the whole Metropolis, exclusive of the City, was formed by an Act of 1829, a year before the Lighting and Watching Act was passed for the country at large. The effect of this Act is to place the Metropolitan Police under the command of a commissioner nominated by the Home Secretary, and responsible to him alone. The Home Secretary also nominates the stipendiary police-magistrates for London and Middlesex, who exercise a petty-sessional jurisdiction in the thirteen police-courts of the Metropolis, exclusive of the City. It is needless to point out that, in these respects, London enjoys a less degree of independence than provincial boroughs, whose Councils regulate the borough police, and whose magistrates, instead of being appointed by the Home Secretary, as head of the Imperial Executive, are appointed by the Lord Chancellor, as head of the Law.

For the purposes of Poor Law administration, London consists of thirty divisions, fourteen of which are old parishes, and sixteen unions of parishes. Any of these divisions, however, may be associated, by the authority of the Local Government Board, under an Act of 1867, for contribution to certain special objects. The "Metropolitan Asylum District Board," which provides for the accommodation of imbeciles and of small-pox or fever patients, actually represents all the divisions, while there are several common infirmaries and district workhouse schools for smaller groups or divisions. A somewhat exceptional discretion in respect of ordinary outdoor relief is allowed to metropolitan guardians, as to other guardians of very large urban unions, by the Local Government Board, but, on the other hand, an exceptionally powerful hold upon their action is retained by that Board in respect of medical relief, both outdoor and indoor. A Common Poor Fund was formed in 1867, to which all the divisions contribute rateably, upon which the whole cost of drugs is charged, and out of which each division is entitled to receive a grant of fivepence a day for the maintenance of each indoor pauper, if its guardians have, in the judgment of the Board, fulfilled all their legal obligations. The leverage afforded by this provision has enabled the Local Government Board to

insist upon many improvements in workhouse infirmaries which they might otherwise have been powerless to enforce, and the same principle extends to the establishment of dispensaries and the payment of school fees for pauper children. It appears from the last report of the Local Government Board, that during the year ending at Michaelmas, 1872, no less than £661,889 was paid, under various heads, out of the Common Poor Fund, which, so far, represents an equalization of poor rates over the whole metropolitan district. There is another marked peculiarity in the Poor Law system of the Metropolis which brings it still more directly under Imperial influence. In non-metropolitan unions, the attendance of resident magistrates, as *ex officio* guardians, is generally sufficient to balance in some degree the prejudices of parochial representatives, but in London unions, many of which, and especially the poorest, have few active magistrates residing within them, the Government is empowered to nominate guardians not exceeding in number one-fourth of each Board. A similar element has been introduced into the constitution of the Metropolitan Asylum District Board, of whose sixty members three-fourths are elected by the several Boards of Guardians united for this purpose, and one-fourth are appointed by the Local Government Board.

By the Education Act of 1870, the whole Metropolis, including the City, was constituted a school district by itself, and the Metropolitan School Board now occupies a conspicuous place among the local institutions of London. It consists of forty-nine members, elected by constituencies which coincide, in respect of area, with those of the Parliamentary boroughs in the Metropolis, by the method of cumulative voting, which, strange to say, must be conducted secretly outside the City, but openly within the City. Moreover, in the City the electoral body is the same as for the election of Common Councilmen; whereas, in the rest of London it includes all the ratepayers. The publicity which has been given, from the first, to all the proceedings of the London School Board, the magnitude of its task, and the extent to which it has exercised its rating powers for the erection of new schools, combine to make its operation one of the most instructive experiments in urban self-government that has yet been tried,

since the Municipal Corporations Act was passed. Hitherto, it has not failed to attract the services of able and public-spirited men in sufficient numbers to leaven the mass of its members, and to obtain an ascendancy in shaping its educational policy. It could scarcely have succeeded, however, in bringing accurate local knowledge and minute superintendence to bear on every parish, had it not been aided by district committees, informally constituted, each of which has a member of the Board for its chairman, and acts under the directions of that body. How far the excitement of novelty, the struggle for the mastery between two religious parties, the intrinsic value and permanent interest of popular education, or the cumulative method of voting, may have contributed to produce these satisfactory results, is a question which time alone can determine.

III.

1. In reviewing the present system of Local Government in England, the bare outlines of which have been sketched, the feature which first arrests our attention is its striking, and almost obtrusive, lack of unity. The perception of this salient fact would not be weakened, but strengthened, by a minuter examination of details. For instance, not merely is there one sanitary code for urban and another for rural districts, one for the Metropolis, and another for provincial boroughs, one for boroughs, and another for non-corporate towns, and so forth; but, for sanitary purposes, the boroughs of Oxford, Cambridge, Blandford, Calne, Wenlock, and Newport in the Isle of Wight, are not deemed boroughs; and some very large towns, such as Birkenhead and Cheltenham, are neither municipal boroughs nor Local Board districts, but governed by Improvement Commissioners, whose powers, under their several local Acts, may range from despotism to impotence, and are probably quite unknown to nine-tenths of the inhabitants. Even the Public Health Act of 1872, which purports to consolidate previous enactments, has really done no more than incorporate them by reference; and the official digests of statutes relating to Sanitary Authorities, urban and rural, which have been compiled since that Act, are

copious enough to fill two moderate-sized volumes. A certain degree of diversity, it is true, must be ascribed to natural and inevitable causes, which no legislation could have eliminated, and which it is no part of sound policy to ignore. The Dock Board, which regulates the navigation of the Mersey at Liverpool, could have no place at Manchester. Villages separated by a mountain chain from the rest of their own county, must sometimes, perhaps, be linked with neighbouring villages in another county; and venerable cities, with customs older than the common law itself, should not be compelled, on light grounds, to surrender them. Still, after making every allowance for such considerations, we cannot but acknowledge that a reckless neglect, both of scientific principles, and of practical convenience, on the part of successive Parliaments, could alone have brought about that portentous confusion of all the elements in Local Government which Mr. Goschen justly described as a chaos of authorities, a chaos of rates, and a chaos, worse than all, of areas. He might have added that a chaos of local elections and local franchises aggravates the chaos of authorities, rates, and areas, since the method and time of recording votes for various local officers, as well as the qualifications of the various local electorates, differ so widely as to defy analysis and generalization. True it is that less collision and friction results from this lack of unity than it would surely produce in a nation with less capacity for self-government. Common sense tells us, however, that it must involve, as it does palpably involve, an enormous waste of power and materials. It has been calculated that more than 7000 persons, mostly fathers of families, are engaged in various official positions, without salary, administering the local affairs of the Metropolis. Now, it is certain that half this number of persons might do the same work more efficiently, if it were properly distributed among them, in respect of place and time, and that half the salaries of clerks, and other paid officers who assist them, might be saved by a similar readjustment.

2. Another reflection, forced upon us by a study, however imperfect, of Local Government in England, is, that much vaster and more various interests are practically subjected to it than is commonly realised, or than were subjected to it in the

last generation. Let us take as an example the municipal government of Liverpool, which has been well likened to that of a maritime state, and let us, for the sake of convenience, adopt a financial standard of measurement. A concise account of Liverpool finance has been lately embodied in a paper by Mr. William Rathbone, M.P., on "The Growth of Local Taxation in Liverpool." From this it appears that, in the year 1871, £284,728 was raised in rates by the Corporation of Liverpool, for lighting and fire-police, scavenging, paving, sewerage, watering, public parks, and general purposes. This sum, however, by no means covered the whole expenditure out of the borough-fund, since Liverpool is fortunate enough to possess a corporate estate, worth more than £600,000 a year if let at rack rent, and actually yielding more than £100,000 a year, besides large profits derived from market fines, legal fees, and other sources, so that no rate is needed to maintain the ordinary police. Moreover, the poor rates, other parochial rates, and a museum rate, were levied separately by the parish authorities, and amounted in the aggregate to £196,860 for the year 1871. Altogether, Mr. Rathbone states the whole receipts from rates at £481,089, besides the rent paid for water supply, which he reckons at £75,000, and the income of the Corporation from all other sources, which he reckons at £260,000. It follows that Liverpool had in 1871 a local revenue of more than £800,000, over and above the proceeds of loans, and other receipts on capital account. Of the municipal debts thus contracted by municipal boroughs full returns are laid annually before the Local Government Board. Those just issued, for the year 1873, show that loans to an aggregate amount of £761,586 were effected on the security of rates or property, by 223 municipal boroughs of England and Wales, exclusive of London. The whole outstanding debt of these boroughs, up to Michaelmas, 1873, is stated in the same report at £6,613,095, their rateable value at £23,522,518, their total receipts for the year, including loans, at £3,436,884, and their total expenditure, including interest on loans, at £3,742,563. Of course, these "Municipal Borough Accounts," as submitted to Parliament, by no means represent the entire cost or range of Local Government within the places

to which they refer, since they make no mention of poor rates or sanitary rates, except in one or two cases. Still less do they afford any basis for an estimate of the whole sum raised by Local Taxation, and expended for purposes of Local Government in England and Wales. This information, however, is supplied in the last report of the Local Government Board, whence it appears that, during the year 1872-3, the sum of £18,571,538 was levied by rates falling on rateable property, the sum of £4,056,752 was levied by tolls and dues falling on traffic, and the sum of £328,741 was levied by duties falling on consumable articles—in other words, by the coal and wine duties payable in the port of London. The aggregate yield of Local Taxation in 1872-3 was, therefore, £22,957,031, exclusive of £8,106,457, placed under the head of Rates, as derived from loans contracted on the security of rates and “other sources,” and of £1,765,088, placed under the head of Tolls and Dues, as derived similarly from loans and other sources. Including these items, the total revenue for purposes of Local Government reached £32,829,076, exceeding the total expenditure by about £164,000. The whole amount of loans outstanding at the close of the respective accounts for the same year was no less than £72,000,000, exceeding the whole amount for the previous year by £2,500,000. These figures, which dwarf the proportions of many national budgets and debts, may be left to speak for themselves, and do not require to be supplemented by instances of the manifold ways in which local taxation and expenditure, especially in great towns, come home to every ratepayer. It may be said, in a word, that Imperial finance, even when it deals with larger totals, does not deal with more important items than Local finance, and that Imperial Government, though it affects the destinies of nations more sensibly, is less closely bound up with daily life than Local Government.

8. If we here pause to ask ourselves how far Local Government in England can be said to work well, as a whole, and which are the strongest or weakest parts of the machinery, we are at once confronted with an almost insuperable difficulty. In all government, efficiency depends more upon individual action than upon constitutional rules; but in Local Government of the

English type, almost everything depends on the character and abilities of the men who may be induced by various motives to engage in it. The well-known case of the Atcham Union, in Shropshire, where pauperism was reduced to a well-nigh incredible minimum by the devoted personal exertions of a single landlord, shows how admirable an instrument of Local Government even a rural board of guardians may become, under the leadership of an enlightened chairman. Nor would it be impossible to pick out small parishes, both in towns and in country districts, whose local administration, owing to similar causes, would compare favourably with that of some great municipalities. Speaking generally, however, we cannot but recognize the superiority of large to small boroughs in all the cardinal virtues of Local Government; nor shall we fail to observe that a local governing body usually discharges its functions the better, the higher those functions are in their own nature. The way in which business is done in several of the more important Town Councils, by men thoroughly conversant with every detail of local affairs, stimulated to industry and fortified against jobbery by the vigilance of their colleagues, raised above personal jealousies by a sense of corporate dignity, and made to feel the full weight of individual responsibility by a careful division of labour, is certainly not surpassed by the conduct of business in the House of Commons, or in most of the public offices. It is in such boroughs, moreover, that ratepayers are most readily induced to sanction expenditure on non-utilitarian objects, like free libraries and public museums, in which England is as yet so far behind the United States. A recent publication shows that Manchester has already established six free libraries, and Birmingham five, closely followed by Leeds, Sheffield, Bradford, and Leicester; while, for want of a sound municipal spirit, the only London District that has adopted the Public Libraries Act is Westminster, and St. Pancras has lately recorded a vote against doing so.

But the School Boards of London, and a few provincial capitals, may probably be cited as the best specimens of Local Government to be seen in England, inasmuch as they have succeeded in attracting the most educated members of the community for the performance of the highest local duty, thereby

fulfilling two main conditions of efficiency. For somewhat different reasons, the Metropolitan Asylum District Board is second to no other local governing body in London in reputation for administrative capacity. Here the fifteen members nominated and carefully selected by the Government not only take a leading part in the work, by virtue of their education and standing, but set a standard of honesty and ability to which the representative members, themselves picked men, cannot but approximate. On the other hand, the cardinal vices of Local Government are too often illustrated in the municipal economy of decayed or decaying boroughs, in the sanitary economy of localities where an educated class is wanting, and in the management of pauperism under boards of guardians mainly consisting of farmers and tradespeople. In such cases, even if there is no very gross venality, there is almost sure to be an inclination to short-sighted extravagance, alternating with short-sighted parsimony, and a more or less extensive prevalence of corruption, in that subtler form known in America as "log-rolling." The contractor or builder has not merely private ambition to gratify, but private interests to serve, by getting into the Town Council when a scheme of drainage or street improvement happens to be on foot. The petty cottage proprietor and the petty shopkeeper are tempted, as guardians of the poor, to keep their debtors or customers afloat by reckless out-door relief; and are, perhaps, tacitly in league with the farmer, who dreads above all things a migration of able-bodied labourers. The self-complacent member of an obscure School Board, like the churchwarden of past generations, likes to lay out large sums on bricks and mortar, with a chance of beholding his own name engraved on a tablet, and sees his advantage in giving handsome orders to architects and decorators; but, as a representative of ratepayers, he grudges the schoolmaster his well-earned salary, and will cut down the most legitimate items of annual expenditure to put a good face on the balance-sheet. This strange combination of penny-wisdom in the disposition of income, with pound-folly in the disposition of capital, is indeed a besetting weakness of English Local Government in its lower gradations. Whatever else may be said in favour of it, we cannot say that it is cheaply

worked ; and notwithstanding that ecor and the reproach of local elective boards, whether, in this respect, they have not : non-elective magistrates who manage cou

4. At the same time, it is impos administration in its entirety, without extraordinary absence of self-governmen We are wont to look back on Saxon time the feudal system as oppressive ; but ti nine-tenths of the population in an Engl at this moment less share in Local Gov to all classes of freemen for centuries 1 after the Norman Conquest. Again, thi share in Local Government than belong the present day, but less than belong under the eighteenth-century monarchy be allowed, than belonged to their own age, as described by Fielding. They s against arbitrary injustice by Imperial posed to be enforced, through Imperial magistrates, who possess a legal auti than could be claimed by Norman baro exercise that authority under the searchi But while the purity of magisterial : peached, they not unfrequently bear t local or class prejudices, even where th enough to be reversed. If the sentences on ruffians convicted of wife-beating, and are apt to be unduly light, because poj regard such crimes with adequate abho county magistrates on poachers and tur a converse reason, to be unduly sever borough magistrates to favouritism in 1 house licenses was one principal groun law, the exercise of the same discretion : magistrates sometimes laid them open t the benefit of their own properties, rath concerned. If a clique of shopkeepers :

pulling the wires of municipal elections in boroughs so as to keep patronage and profits in its own hands, county magistrates have been known to support each other on assessment committees in rating splendid mansions at a preposterously low valuation. Yet few will deny that more intelligence and public spirit is to be found in the county magistrates, whether assembled at Quarter Sessions, or acting *ex officio* on various mixed boards, than is manifested by the elective delegates of parishes. It is generally felt that an ordinary body of village ratepayers could not be safely trusted with judicial authority of any kind, with the control of licenses, or with the management of schools; and the Legislature still treats them as incompetent to use the Parliamentary franchise aright, for want of proper training in the old English art of local self-government. Nor is this degeneracy of rural districts in the capacity of democratic action redeemed by a thoroughly vigorous and complete organization of counties on the departmental system. On the contrary, whereas elective mayors of boroughs may be and have been held responsible at law for the peace of their respective precincts, there is no individual or permanent representation of Government, either Local or Imperial, in counties. The prerogatives of the Lord Lieutenant are becoming more and more shadowy; the Court of Quarter Sessions is a fluctuating body whose meetings are intermittent; and the magistrates, though responsible in theory for the maintenance of order, are subordinate to no head or department of State, and are left to do what is right in their own eyes. Let it be granted that small farmers and cottagers, however impatient of Local Taxation, are by no means disposed to grudge their landlords the burdensome privilege of conducting Local Government on their behalf; still, the fact remains that in the rural districts of England many of the powers which properly belong to village communes are either quite extinct or have passed into the hands of non-elective magistrates.

5. It would not, however, be correct to measure the whole amount of self-governing energy in the rural districts of England by the standard of parochial or county organization. The same process which has impaired the organization of counties and of parishes has also, as we have seen, created new centres, as well

as new modes, of Local Government; and about to see, has diverted a large amount of energy from Local to Imperial legislation of these and other centralizing tendencies for it is here that we must seek both changes that have been wrought in England especially during the present reign, and their future reform.

Perhaps the most distinctive feature of Government in modern times, is the State Imperial Executive to exercise an indirect control of its functions by means of State inspectors dependent on efficiency. No such expedient of our ancestors, whose only device for enforcing their duties by local authorities in corporations, or boroughs, was the imposition of fines, it was not always easy to exact. But the present day is not limited to indirect power, but to a direct interference by Parliament, Departments of Government, with matters of private regulation, such as the hours of labour in mines, and even domestic arrangements upon health. The demand for this kind of interference is as old as sumptuary laws, has not arisen from despotic or bureaucratic jealousy of local authorities, but from a popular eagerness to employ the power of legislation and administration to accomplish what is ardently desired. Those who advocate poor-law relief, of educational management, of State guarantee—those who clamour for a State guarantee of friendly societies, or who maintain that we should test not merely weights and measures, but every article sold—are not conscious of the danger to individual liberty, but simply anxious to achieve their ends by the shortest possible method. This method of times does, lead to legislative mistakes which threaten local and individual liberty would have been. But, after all, it must be confessed

should not be retarded until the more backward party of the country have placed themselves on a level with the more advanced ; and the example of municipal corporations shows both how little self-reform can be trusted, and how much self-government may gain by Imperial intervention.

Other centralizing tendencies have sprung from a patriotic craving for a higher national life, from a bitter experience of the abuses and disorders incident to an excessive subdivision of local powers, or from a legitimate expansion of social ambition and political energy, chiefly due to such irresistible agencies as printing, steam, and telegraphy. In the olden times, when people were far more rooted in the soil, and seldom thought of changing their residence, or buying land in another county, there was an instinctive attachment to local institutions, and a readiness to serve in local offices, which it would be absurd to expect in days when men are more familiar with national, and even international, interests ; when county families, and the burgher aristocracy, look upon London as a second home ; when the rural labourers themselves have become migratory ; and when smaller are attracted towards larger masses of population, as by a fixed law of political gravitation. It must not be forgotten that men who cheerfully spent their lives in gratuitous exertions on behalf of their own neighbourhoods had to be remunerated for transacting the affairs of the nation in Parliament, and would have thought it an intolerable hardship to be impressed into any unpaid commission, such as those which nowadays perform so much useful work for the public. Nor must it be forgotten that, putting aside all those persons who live only for sport or self-indulgence, a very large proportion of the leisure and brain-power otherwise available for Local Government is actually devoted to semi-public duties of a commercial or a philanthropic nature, which had no place in earlier states of society. If we could lay our hands on all the directors of railway and other joint-stock companies, all the governors and trustees of schools and other educational institutions, all the managers of religious and charitable societies, and if we could employ their undivided powers on Local Government, we should no longer have reason to lament a dearth of materials, whatever

difficulty we might have in organizing and applying it. In fact, Local Government has been to a considerable extent planted by voluntary association; and though it is doubted whether voluntary association fosters so conscientious a sense of citizenship, it certainly has its own, to which the old English squire or burgher was a stranger.

6. But centralizing tendencies are not the only obstacle to effective Local Government in modern England. The unequal distribution and exorbitant influence of landed property, especially in the form of landed property, would be a counterpoise to local institutions of a popular character, if the social current did not set in the direction of change. A foreigner might, perhaps, imagine that in even the great landowners and their eldest sons would be the champions of such institutions, from which the life of the country drew its very life-blood in olden times. So, too, one might imagine that municipal independence should be cherished by the leading citizens of great towns with as much pride as in the days of which Macaulay tells us, was to the Londoners what Athens was to the Athenians, or what Florence was to the Florentines in the sixteenth century." Experience, however, teaches that the revival of self-government in counties is not likely to be encouraged, by the landed aristocracy, if the landed class has less concern for self-government in towns than the commercial aristocracy. The reason is obvious enough. The power which a great landowner might exercise as chairman of a parochial council, or even as member of parliament, would be as nothing compared with the power he already possesses, as lord of all the farms, and as the chief labourer in the locality, and as a resident magistrate. A man will often attend a board of guardians, and hold a seat there *ex officio*; but why should he care to be elected to elective office by the votes of his own dependants, or to pass resolutions in any communal assembly which he constituted would be practically outweighed by the

his own individual will? The merchant-princes of the City, and the richest capitalists in manufacturing towns, are deterred by similar motives from aspiring to civic dignities. Their sense of self-importance and their sense of responsibility find a far more complete gratification in the colossal operations of trade, and in the management of country estates far removed from their place of business, than is offered by a career of municipal statesmanship, crowned with knighthood or baronetcy itself. The one municipal distinction which is generally coveted by them is that of being placed on the commission of the peace of the borough; and those who have once become magistrates too often decline any other municipal duty which they may previously have been persuaded to discharge.

Nor is this indifference to Local Government among the highest classes—both in towns and rural districts—compensated by a corresponding zeal for it among the lower classes. With all its advantages, the parochial system, as it exists in English country parishes, is singularly ill-calculated to supply any democratic training for self-government, or to promote the recognition of common interests and mutual duties in village communities. The humblest member of a Presbyterian congregation, by virtue of his spiritual independence, is made to realize that he is a citizen; but the ordinary English farm-labourer, accustomed to depend on the clergyman in spiritual matters, as he depends on the squire for his cottage and the farmer for his wages, does not yet feel himself to be a citizen, and will not be made to feel it by the mere acquisition of a Parliamentary vote. When he is roused into a belief that he is deprived of his rights, his first instinct is to combine with his fellows, and his next to demand protection from Parliament. He scarcely dreams of claiming a share in Local Government; and even trade-unionists in towns, with all their capacity for organization and agitation, have seldom put forth their strength in municipal elections. The consequence is that, whereas the Local Government of rural districts is chiefly in the hands of magistrates, but partly in the hands of tenant farmers, the Local Government of towns is almost entirely in the hands of shopkeepers and struggling professional men, engaged in busy callings, and with few hours to

spare for public business. The mass little part in political life of any kind, to vote, to attend a town-meeting, or to far as they read the newspapers, they pride of national than of local affairs. Nor in towns can it be said that activity is an avenue to Parliament; and persons of authority on local affairs, are often set at naught in favour of successful money-makers or politicians. At the same time, it is notorious that contests for office are mostly determined by the same political management, as Parliamentary elections, and managed by the same agents, as Parliamentary elections. Partizanship is manifestly an evil, for it prevents the election of a good alderman or councillor, so as to secure the less popular side of Imperial politics; but it is also an evil, for it helps to clear the atmosphere of politics, and may stimulate men of ability to enter municipal office. Moreover, the prevalent interest in a borough, is a potent source of a searching criticism of its Local Government, and the advantage of Imperial over municipal politics is conducted in the fierce glare of publicity, and under a metropolitan press, which no blunder, bribe or solicitation can silence. The state of local journalism, except in one or two first order; but it is certain that where it is high, there is much less danger of public neglect, than where a non-political local

IV.

1. Such are some of the general considerations which the system of Local Government must be based upon. It remains to consider the principles which have been observed in framing a legislative scheme for Local Government in England. Several of the principles have been laid down and illustrated by Mr. J. S. Mill in his Representative Government; but the

deserving of attention, which are suggested by our previous review of the subject.

The very first rule which a statesman would set before himself in attempting so difficult a task, would be a rule against destroying any local institution which has real life in it. There is real life in county institutions, not merely by virtue of the many historical associations belonging to counties, but also by virtue of the many common ties and interests of which county towns are the centre, and of the vast administrative business actually transacted by magistrates and other county authorities. However great the disparity in size between the smallest and largest counties, even the smallest contains all the elements requisite for an independent organization; nor is there any virtue in uniformity of size, if the parts of each organization be duly proportioned. For similar reasons, there is real life in borough institutions, the vitality of which is still further strengthened by a community of sentiments, wants, and occupations, such as can only exist in a town population. There is real, though less vigorous, life in the institutions of parishes, due to causes already explained, as well as to a frequent connection between parochial and territorial franchises. Even in Unions there is real life, inasmuch as most of them have possessed, for a whole generation, a local council, a local staff of officers, and a local system of taxation, to which many other local arrangements have been adapted. But there is no real life in the institutions of Parliamentary or lieutenancy divisions of counties, and very little real life in those of petty-sessional divisions or highway districts, which may be altered to suit the convenience of magistrates, without much disturbance of other local arrangements. As for local boards, and the institutions still more recently created for purposes of sanitary administration, they are essentially provisional in their character, being, in fact, expressly made liable to variation on the motion of the central board. It does not follow that it would be wise to uproot them hastily, or without full consideration; but where a country is found to be overcrowded with local institutions, it is the less vigorous and deeply rooted which must be first weeded out.

The same distinction applies with equal force to a readjust-

ment of existing boundaries, some of which in respect, because determined by geographical marks of a permanent kind; while demarcation which have either been obliterated or fluctuating. A river may be the best boundary until it is bridged over; but it ceases to be so at all, when its two banks are connected by a bridge as those which cross the Thames from Westminster to Southwark and Lambeth. It is the worst possible boundary to select for the object be to subject the whole river system of drainage. In other words, local boundaries for Local Government, and not Local boundaries. What is important is to find the forces and sympathies which bind men together which may have been traced on official administrative purposes. But no reason can be satisfactory which ignores the differences between urban and rural districts. If to be adopted, they must not be so general as to force straggling villages into a Mezentzian towns, and they must be elastic enough to follow the spontaneous process whereby the former are absorbed into the latter.

The greatest difficulty connected with the drawing of local boundaries, and that which has deterred the Legislature from attempting it, is that of the incidence of local taxation. This is a difficulty which is very apt to be unduly magnified by the Poor Law Amendment Act of 1865, and the Act of 1870 which were equalized throughout London for certain purposes. The serious changes in the incidence of local taxation have had beneficial results of these measures have been the convenience or hardship which may thus befall individuals. But the supposed hardship is entirely imaginary. No man settling in a parish has the smallest right to presume that its resources are constant in quantity and quality, or that

be as light as when he took possession of his premises. With proper reservations for extreme cases, and with a proper discrimination between general and special rates, any reform of local areas which should render Local Government more efficient, would amply justify itself, even though it did not, as it assuredly would, facilitate an enormous reduction in the cost of management. The prospect of this reduction is, in fact, one of the strongest, but least avowed, obstacles to its adoption. There are few clerks whose offices might be extinguished, or whose salaries might be diminished, by a comprehensive reconstruction of Local Government, who are not strenuous opponents of it; and no one can estimate beforehand the obstructive power of this class, mostly composed of legal practitioners, and other professional agents, intimately acquainted with the hidden springs of local action.

Another financial difficulty which has greatly obscured the question of Local Government, is the difficulty of making all descriptions of property contribute equally to local taxation. Now, whatever this difficulty may be, and however necessary it may be to surmount it before reforming local taxation, a little reflection will show that it has no direct bearing on a reform of Local Government. Whether or not the rich fundholder ought to bear as large a proportion of local burdens as the occupier of lands and houses, and whether his pocket can be reached more effectually by a local income-tax or by increased subsidies from the Consolidated Fund to local treasuries, neither the proper basis nor the proper organization of Local Government is determined thereby in any material degree. No doubt, if personalty is to be rated as well as realty, its owners will be entitled to votes at local elections in respect of it; and it is quite possible that, in some places, they may concern themselves more actively than heretofore in local affairs, with great advantage to their neighbours. The same argument has been used, with equal force, in favour of what is called the half-rating system, under which the immediate liability to rates would be equally divided, as to real property, between owners and occupiers. This was the proposal made by Mr. Goschen in 1871, and it is strongly recommended by the experience of Scotland, where landowners,

having formerly paid all the rates, at rates, have brought an enlightened int Government. But it would be worse the question of Local Government with spect of local taxation. There are as many p Imperial Government and Imperial Tax Government and Local Taxation ; but n seek to make his views of national poli views of national finance. It is not ev may generally be convenient, that are should correspond exactly with areas much confusion of thought might have distinction been more fully realized. our inquiry unmoved by the controversy ing the principles of rating, and assure which it may lead can shake those leg careful study of Local Government, l political side.

The constitution of electoral and gover of still greater delicacy, because the are more complex, and the possible them more various. Happily, there is expediency of making the electoral fram the liability to rates, and, by the existin qualified to vote for the majority of the elective. It has been much disputed, ratepayers should have equal voting offices should be elective, and, if not, be distinguished from the non-elective o

It is remarked by Mr. Mill, that, in ment is mainly concerned with the disp there is the less to be said against propor pecuniary contribution, as in the case guardians and local boards. It may as the educated classes have much l than over Imperial Government, by v there are stronger reasons for giving means of plural or cumulative voting,

participation in local affairs is for the common good of all. But it must not be forgotten that, of all classes in the community, the working classes are the most directly interested in Local Government, and, above all, in sanitary regulation, upon which their health and domestic comfort so vitally depend. Yet vast numbers of the working classes are disabled, for want of a ratepaying qualification, from voting either for town councillors in boroughs, or for vestrymen in London, or for guardians of the poor. There are districts in the Metropolis where petty tradespeople predominate in the local constituencies, and absolutely rule the vestries, unchecked by any resident gentry, and practically uncontrolled by the Local Government Board. Many of the vestrymen in such districts are themselves owners of the miserable tenements in which the poor are huddled together, or the retailers of articles peculiarly liable to fraudulent adulteration. The mockery of entrusting such persons with the duty of enforcing remedial measures against themselves would be quite flagrant enough, even if it were not aggravated by the fact of their lodger-tenants and poorer customers being actually unrepresented. This is an anomaly which it is by no means easy to remedy, inasmuch as lodgers seldom reside long in any one locality; but it is an anomaly which cannot be overlooked in discussing any plan for extending the system of plural voting, so as to multiply the electoral power of the rich. It may be most desirable to assimilate all local franchises to each other, establishing one uniform qualification, as well as one mode and one day of election for all local offices. But it is an object of still higher importance to bring as many as possible of those over whom Local Government is almost omnipotent, for good or evil, within the pale of local representation.

It by no means follows that all local offices should be representative, in the sense of being filled by direct, or even by indirect, election. On the contrary, there are many reasons for preferring nomination to election in appointments to purely executive offices, and some reasons for preferring indirect to direct election in appointments to certain representative offices. "It is ridiculous," as Mr. Mill says, "that a surveyor, or a health officer, or even a collector of rates, should be appointed

by popular suffrage." A large mass of electors, who may have sufficient means of estimating the claims of candidates for the office of town councillor or vestryman, can rarely have sufficient means of estimating the claims of candidates for offices requiring special ability of a kind which has nothing to do with popular qualities. Such offices, if filled up by the choice of ratepayers or large representative boards, inevitably become the prizes of persistent canvassing, or shameless appeals to sympathy; whereas, if they are filled up by small representative boards, they are very apt to be distributed within a narrow circle of selection. Experience shows that, on the whole, the best security for executive offices being filled up wisely and honestly is individual responsibility; and, if this principle were judiciously carried out in a complete reform of the local Civil Service, its efficiency and tone would be raised to a much higher level. Again, a large mass of electors, who may be quite fit to choose persons to be charged with the ordinary powers of vestrymen or guardians, may be quite unfit to choose persons to be charged with extraordinary powers; as, for instance, members of the Metropolitan Asylum District Board, or of the Metropolitan Board of Works. Accordingly, these are chosen by the Boards of Guardians and Vestries respectively, with excellent results; and, if the same principle of double election were judiciously carried out in a complete reform of Local Governing Bodies, it might be safe to combine a democratic suffrage with a considerable extension of the functions which are sometimes found too arduous for the immediate representatives of ratepayers. It would also be highly desirable, were it possible, to provide for the better conduct of public business on boards which are partly deliberative and partly administrative. In the Imperial Parliament, the Prime Minister and his colleagues are virtually responsible for all necessary measures of administration, and for the initiation of legislative policy; but in a Town Council, or Court of Quarter Sessions, no one is responsible for either duty, though an energetic mayor or chairman may take them upon himself. Perhaps a standing executive committee, elected by these bodies from their own members, and invested with definite legal attributes, might be trusted both with the distribution of their

patronage, and with the general direction of their proceedings—subject, of course, to such control as Parliament exercises over the Imperial Ministry.

But, however perfect may be the system of election on which Local Government is based, and however admirably its legislative may be separated from its executive department, it will fail to attract the highest capacity, or to perform its allotted work successfully, without a vigorous concentration of local councils. If a borough hardly contains within itself good materials for one municipal board, how can good materials be procured for the Town Council, for the board of guardians, for the improvement commission or local board, if any, and for the school board? We are here supposing, be it observed, that eligible candidates are equally ready to solicit a gratuitous office, whatever degree of power or influence be attached to it. The case is very much stronger if we take into account the natural motives of local ambition and public spirit. It is morally certain that if, as Mr. Rathbone has lately proposed, there were but one body in each borough or rural district, entrusted with all the powers of Local Government, including the management of schools, men of education, independence, and leisure, would be far more disposed to serve on it than on some one of half a dozen boards, whose relations no one understands except the local attorneys. It is not so certain that men of this class are to be found at all in every borough and rural district, or that school boards, in particular, would not suffer in character and influence, if they ceased to be elected by a special mode of voting for a special duty. But the great mass of local business now done by a multiplicity of co-ordinate boards, composed of busy men, would surely be done better if it were subdivided among committees, under the direction of a single board. This concentration, too, might be effected without enlarging the average size of the areas selected for the groundwork of it—as, for instance, without enlarging the average size of urban or rural sanitary districts—though it would be far more beneficial if accompanied with a revision of areas. Nor is it open to any objections that can be urged against Imperial centralization. It is the weakness, and not the strength, of local institutions in England that has

favoured and almost justified the growth of Imperial centralization in late years. If many of these institutions resemble detached fragments of Imperial Government rather than organic parts of Local Government, the evil is to be cured, not by a further dispersion, but rather by a wholesome consolidation, of local forces.

In attempting to define the proper sphere of Local Government, we must be quite as careful to guard against encroachments on individual liberty and duty, as to guard against encroachments on Imperial authority. The province of law is not to punish the violation of moral obligations, as such, but to protect society against injury. Sometimes this protection may be given most effectually by a direct public regulation of matters, like sanitary arrangements, which, in more primitive times, each citizen was left to manage at his own discretion. In other cases, the object will be more surely and safely attained by recognizing and enforcing individual responsibility. It is possible for Local Government to become too meddlesome and inquisitorial, though at present the danger may rather lie on the opposite side, and Local Government may need to be strengthened at once against the selfishness of individuals or companies, and the bureaucratic aggressions of State officials. The broad line which should divide the sphere of Local from that of Imperial Government is clearly drawn by Mr. Mill. "The authority which is most conversant with principles should be supreme over principles, while that which is most competent in details should have details left to it. The principal business of the central authority should be to give instruction, of the local authority to apply it. Power may be localized, but knowledge, to be most useful, must be centralized." Thus, Parliament has laid down fixed principles for the assessment of property to local rates, so that no local authority could either levy a graduated rate or rate personalty at all; but the assessment is actually made by the overseers of each parish, and it is well known that rates so assessed are collected with less difficulty than Imperial taxes. But the degree of power which it may be wise for Parliament to vest in local governing bodies must evidently depend very much on the capacity of those bodies. Even country parishes have been treated as competent

to decide for themselves whether they shall have a school board, and school boards have been treated as competent to decide for themselves whether school attendance should or should not be made compulsory ; but no local authority has yet been treated as competent to superintend the redistribution of educational endowments. The formation of county boards for this purpose was suggested thirteen years ago by the Duke of Newcastle's commission, and a similar proposal for the formation of county boards of health was made by Sir Thomas Acland, as a member of the Sanitary Commission. No one can deny that much is to be said for both schemes, neither of which conflicts with Mr. Mill's conception of the functions belonging to Local Government, but no one can affirm that Local Government, as now organized in counties, is strong enough to bear such an additional weight.

In short, a thorough reform of Local Government must needs precede any legislative extension of its sphere, and any legislative extension of its sphere must be founded on a policy very different from that which inspires most Permissive Bills. It may be desirable to give a borough the power of buying up gas or water companies without compelling it to do so, but the great majority of powers, which it is desirable to confer on a local governing body, are powers which involve important duties. Such duties are left to it by the Imperial Government, not because it does not concern the nation whether they are done or not, but simply because they can be done better, more cheaply, or more conveniently, by local authority. It is, therefore, not enough to arm the Imperial Government with the right of advising, inspecting, and reporting ; a right of coercing must also be reserved, and occasionally exercised. Even Mr. Mill would allow the central executive, in "extreme cases," to dissolve the local representative council, or to dismiss the local executive, and if a safeguard were needed against the abuse of this prerogative, it might be made necessary that a *mandamus* against the defaulting local governing body should previously have been obtained in the Court of Queen's Bench. Nor does there appear to be any good reason why, in the last resort, local institutions should not be suspended altogether, just as in-

veterate corruption in a constituency is punished by temporary or permanent disfranchisement. The effect of this penalty would be to deprive the contumacious district of its self-governing privileges, and to place it under the direct administration of county or Imperial authority, as the case might be. Short of these high-handed measures, there are many expedients whereby salutary pressure can be applied to local governing bodies, from a central office. Such is the power of refusing subsidies from the Consolidated Fund, or from other funds, like the Common Poor Fund of the Metropolis, under the control of a State Department. Such, too, is the exceptional power by virtue of which Mr. Goschen was enabled to amalgamate the guardians of Holborn, Clerkenwell, and St. Luke's, into a single board, and that habitually exerted by Poor-Law auditors in the disallowance of questionable items and the "surcharging" of accounts. There is a vital difference between interference of this kind, however constant, and interference which takes the form of substituting Imperial for local administration. If the latter be ever admissible, it is admissible only where the whole nation is interested in the due performance of the local duty. It is possible to conceive the corruption of local tribunals becoming so flagrant as to warrant the provisional transfer of their jurisdiction to a special commission, but it is not possible to imagine the paving or lighting of a town becoming so bad as to warrant the improvement of it by a similar method.

2. It is now time for us to inquire what kind of change the gradual and discriminating adoption of these principles would involve in the existing Local Government of this country. It is self-evident that it would involve an exhaustive reconstruction of boundaries and areas, but it does not follow that any violent derangement of local associations would be necessary. Each county might retain its integrity, with slight variations, such as the annexation of its detached portions to other counties, and the revision of its frontier-line. Municipal boroughs might also retain their integrity in all essential respects, though more alteration of boundaries would here be necessary, to make their circuits identical with those of Parliamentary boroughs, to prevent borough areas overlapping union areas, and to bring

within the former any purely suburban districts which happen to be outlying parts of rural parishes. This would of course imply a corresponding disturbance of parish boundaries, and it would, on other grounds, be expedient that parish boundaries, of which the importance has been much diminished by union chargeability, should be thoroughly rectified. There remain Poor Law Unions, districts under local boards, districts under improvement commissions, petty-sessional divisions, and districts created for special purposes under recent Acts, like the school board district and the highway district. Among these, districts under local boards and districts under improvement commissions have already been designated as self-governing urban communities by the Public Health Act of 1872, and armed with powers for the regulation of building, which presuppose a dense population. Having advanced so far in municipal independence, they—or at least the more populous of them—might well be invited to advance a step further, and to accept the position of corporate boroughs, unless their inhabitants should object to incorporation, and prefer the alternative of falling within the circuit of county organization, which should embrace all non-corporate communities, both urban and rural. The whole of England, excluding the Metropolis, would then exhibit, as of old, but two principal forms of Local Government, presently to be described, the one applicable to boroughs and the other to counties. It would next be requisite to reduce all the heterogeneous sections of counties to a common measure, so as to make Poor Law Unions coincide with highway districts and petty-sessional divisions, and to obtain one secondary area intermediate, like the ancient hundreds, between the parish and the county. In most instances, the Poor Law Union would probably be taken as the approximate basis for this new area, because of the large establishments and complex machinery which belong to it. But it might often be convenient that union boundaries should conform to boundaries of highway districts, which have the advantage of not encroaching on towns, and sometimes the petty-sessional divisions might indicate the natural watersheds, so to speak, of Local Government, better than either unions or highway districts. It is needless to add

that whatever lines of demarcation might be selected, all cross-divisions would be absolutely eliminated. Every parish would be wholly included within one secondary area, be it what it might; every secondary area would be wholly included within one county, and no *imperium in imperio*, except the municipal precincts of corporate boroughs, would discolour a map illustrative of Local Government in England.

In corporate boroughs, the sphere of municipal authority would scarcely need to be enlarged. The Town Council would continue to possess all the powers assigned to it by the Municipal Corporation Act and the Public Health Act of 1872, and it is possible that, in some of the largest boroughs no considerable extension of these powers may be expedient. In the great majority of boroughs, however, it would be well if the board of guardians or select vestry could be transformed into a committee or independent delegacy of the Town Council, whose numerical strength would have to be proportionably increased. A seat on the Town Council would thus become a position of great influence and responsibility, and its dignity would be materially enhanced if the borough magistrates were made *ex-officio* town councillors. The question of merging school boards in Town Councils would have to be treated on its own merits, and might, perhaps, be reserved for subsequent consideration. No doubt, the cumulative vote has proved a valuable safeguard for the rights and interests of ecclesiastical minorities, but there are other rights and interests which deserve respect besides those of ecclesiastical minorities, and other modes of protecting the latter. If five-sixths of the ratepayers in a borough should desire to amalgamate their school board with their Town Council, it would not be very easy to show why their wishes should not be allowed to prevail, or why, if need be, Town Councils should not be permitted to associate clerical or lay assessors with themselves for purposes of school management. At all events, the presence of councillors mainly representing educational parties, coupled with the admixture of a judicial and non-representative element, might impart to an ordinary Town Council a character which a few only of the best have as yet succeeded in attaining. If further securities were needed against what Mr. Rathbone calls

"hot or cold fits" of popular caprice, and especially if the municipal suffrage were extended to lodgers, there would be no innovation in borrowing the method of cumulative voting, or that of plural voting, for the election of town councillors, or a certain proportion might be elected by owners of rateable property. In boroughs too small to be formed into separate Poor Law Unions with due regard to economy, the Town Council might be empowered to make special arrangements for indoor relief with the nearest workhouse, and in the future incorporation of small boroughs, the privilege of maintaining a separate police force should not be granted without reserve.

It would be far more difficult to deal with counties, and rural or semi-rural divisions of counties, because new powers, as well as new governing bodies, would have to be created by Parliament. The parish would probably be retained as the elementary unit, but it might be needful to elevate the larger townships into the legal status of civil parishes for all but merely ecclesiastical purposes. This having been done, it would be seen that if the parish is to be anything more than a rating area, it requires some kind of parochial constitution. Mr. Goschen proposed, in this Bill of 1871, that in every parish the ratepayers should annually elect a parochial board, varying in number according to population, with the joint powers of overseers, inspectors of lighting and watching, highway surveyors, and nuisance authorities, the chairman of which board, also to be elected by the ratepayers, would be the civil head of the parish, and its representative in any higher local council. One great merit of this proposal is that it would provide a single accessible officer in each village, like the *maire* in a French commune, to whom all official communications might be addressed, and reference might be made on various parochial matters, which the clergyman, for want of a civil head, is often obliged to settle as best he can. Considering that overseers have long filled a distinctive place in the parochial system, it might be convenient to retain this name for the civil head of a parish, nor would the utility of such an elective officer altogether depend on his being chairman of a parochial board. For it is clear that no parochial board of a rural village could safely be entrusted with any but

the subordinate and ministerial functions of Local Government, and that it would be chiefly valuable as a select and permanent committee of the vestry. The real mainspring of Local Government in rural districts would be placed in the governing body of the union, or whatever district might be substituted for the union as the secondary area of administration. This body, not merely composed of overseers from country parishes, but also representing non-corporate towns within the district, would regulate poor-relief, highways, sanitary concerns, and all other local matters, except those which, like the management of gaols, lunatics, and police, would continue to be regulated by the county executive. It might, however, be commissioned to act, for some purposes, as a branch of the county executive, and it might, in like manner, commission a parochial overseer, or a parochial board, to act as its own agent within a given parish. Non-corporate towns which now enjoy the privilege of managing their own highways and sanitary affairs, might retain that privilege under the general control of the district council, and any equitable adjustments of local taxation might be made by the same authority. The district council, too, rather than any parochial board, would be the body most competent to superintend elementary schools within its district—subject, however, to such exceptional considerations as have been admitted in the case of boroughs. The administrative capital of the district would also be the centre of petty-sessional jurisdiction, and it is difficult to believe that Police arrangements, Post Office arrangements, and Inland Revenue arrangements, might not be so modified by degrees as to make them correspond with the new organization. If the method of plural voting were not adopted in the election of parochial overseers, it might be well to have on the district council a certain number of members elected by that method from the whole district, and it would, in any case, be well that resident magistrates should have the same right of sitting *ex officio* on district councils which they now have of sitting on boards of guardians.

The higher board of the county, whatever functions might be reserved to it, must needs be constituted on like principles—that is, it must contain both representatives of ratepayers and a

certain proportion of magistrates. Considering the great experience of magistrates in county administration, and considering, too, how largely they are interested in it as owners of property, there would be nothing unreasonable in allotting them one-half of the seats on the county board, and the other half might be filled by members elected from the district councils. Such an assembly would certainly not err on the side of being too democratic, and it might possibly be necessary to reinforce the popular element in it, if it should ever acquire extended legislative powers. As an executive body, and board of control, however, it would command all the more confidence from not being the creature of a *plebiscite*, or directly amenable to impulses from below. It would exercise, of course, all the non-judicial powers now vested in the court of Quarter Sessions, as well as such other powers of inspection and direction as the Imperial Legislature might delegate to it. For instance, there is no reason in the nature of things why a county should not superintend its own factories or mines, as well as its own schools of every grade; why it should not regulate the inclosure of its own commons; or why it should not have its own licensing system, within limits to be laid down by Parliament. On the other hand, it would be necessary, for these purposes, to bring corporate boroughs within the sphere of effective county authority; a measure which, even in ancient times, was found to be fraught with insuperable difficulties. It would be more prudent, in the first instance, to be content with establishing effective county authority over rural districts, and those urban districts which may not have reached the rank of boroughs, and therefore have not a separate magistracy and local tribunal. The judicial business of the Quarter and Petty Sessions would not be affected by any reform of Local Government, and might remain on its present footing, until the time comes for a comprehensive reform of the Judicature. If, however, the criminal jurisdiction of Quarter Sessions should ever be committed, as in Ireland, to a stipendiary chairman, it would be worthy of consideration whether he should not be further invested with a civil jurisdiction equivalent or superior to that of a modern county court judge. There are many local disputes

about rights of way, estate boundaries, pollutions of water, and the like, which are now brought at a vast expense before the superior courts, but which might be determined far better in a summary manner before a judicial committee of Quarter Sessions, as they formerly were before the assembled suitors of the old county court.

It must be acknowledged that no reorganization of Local Government in England would be complete which should not include the Metropolis. But it is not to be assumed too hastily that a drastic reform of municipal institutions is more urgently needed in London than elsewhere. By virtue of its mere size and population, London is incapable of being governed like an ordinary borough, whatever constitution may be imposed upon it. By virtue of being the capital of the empire, it contains an infinitely larger number of men with the leisure and ability requisite for municipal office, over and above the vast floating mass of summer residents, and, so far, has an apparent advantage over other great towns. But then, by virtue of the same exceptional circumstance, it contains a very small proportion of wealthy and highly educated citizens born and bred within it, attached to it by family ties, and willing to serve it with a lifelong fidelity. The want of public spirit displayed in London elections, both municipal and parliamentary, the want of intelligence and sense of duty which has characterized the action of certain London vestries, and the general want of corporate vitality in the whole metropolitan community, are the natural consequence of these peculiar conditions, rather than of defects in the formation of local areas or local governing bodies, which might be cured by legislative measures. If the existence of a flagrant anomaly calls for prompt legislation, the arbitrary power of non-elective magistrates in rural districts is a far more flagrant anomaly than any faulty distribution of self-governing power which may prevail in London. If legislation be demanded to correct practical evils, arising from local misgovernment, it remains to be proved that London is worse governed, on the whole, by the Corporation, the Metropolitan Board, and the vestries, than most boroughs are governed by Town Councils—with inferior resources, it is true, but with slighter difficulties to

overcome. This, however, is no reason why the municipal government of London should not be improved, and there are decisive reasons for believing that it is capable of improvement. However creditable may be the management of the Corporation, or of each parochial vestry, considered by itself, no one can defend a system which places the same great thoroughfare under two or more independent authorities, besides making it liable to be constantly broken up by gas and water companies. However conscientiously vestrymen may perform their duties, no one can fail to see that few London parishes contain the necessary variety of elements for enlightened self-government, or that London as a whole possesses a stronger individuality and cohesion than any one of its constituent parts. It is not merely an absurdity, but an evil, that Parliament should be incessantly called upon to meddle with the local affairs of London, and that a Ministry should be discredited by its failure to regulate metropolitan cabs. Upon these grounds alone, if no others could be alleged, the present government of London must be regarded as unsatisfactory, though not as scandalous or intolerable.

Two alternative plans of municipal reform have been proposed for the Metropolis—the one erecting the existing parliamentary boroughs into separate municipalities; the other subordinating them, as “municipal districts,” to one central “Municipality of London.” Any detailed criticism of the last, which is now before the public, would here be out of place; but it is right to point out that, in some of its leading features, it is in conformity with the principles before laid down. These features are the maintenance of the Corporation as the focus of municipal life, and the extension of its organization to all the surrounding districts of the Metropolis. A reform might be conducted on this basis with less disturbance of vested interests and existing arrangements than would be caused by the creation of nine distinct municipal boroughs within the metropolitan area upon the ruins of the vestries and district boards. Unfortunately, the wholesale destruction of vestries and district boards is equally contemplated by those who advocate the expansion of the Corporation; and the municipal districts which it is proposed to substitute for them are, in fact, intended to be electoral areas,

rather than independent areas of administration. The almost inevitable consequence of such an arrangement would be that, in the language of Guizot, the supreme municipal council would resemble an edifice detached from the soil, and that London would be governed by an army of paid officials under the ineffective control of a deliberative assembly.

Supposing this part of the scheme to be abandoned, and the vestries to be retained as subordinate governing bodies, their efficiency might be increased by means already suggested. If, for instance, their functions should be amalgamated with those of the metropolitan boards of guardians, it might be made worth the while of better candidates to offer themselves for election, the benefit, if any, of plural voting might be imported, and magistrates or nominees of the Government might be introduced as *ex-officio* members. But in any case a supreme governing body must be created for the Metropolis, capable of directing and controlling the action of vestries, as well as of dealing with such questions as the provision of dwellings for the labouring population. This body might be partly composed of members chosen by the vestries themselves, partly of members chosen directly by ratepayers—voting, not in small wards, but in districts as large as the Parliamentary boroughs—and partly of officials and other persons representing the interest of the nation in the government of the Metropolis. It would of course exercise all the powers now vested in the Corporation, or the Metropolitan Board of Works, but would be clothed with many additional powers which the Board of Works does not possess, and, in particular, with the power of compelling vestries to carry out its rules in concert with each other. The only corporate privilege of any importance which it would be hardly possible to conserve under such an administration, would be the independence of the City Police; and it would not be impossible to devise provisions whereby the advantages of this independence might be secured without the inconvenience of a divided command. The absolute control of an independent police force is the most imperial of all the functions which are entrusted by the nation to local governing bodies. There are special reasons why it should not be entrusted to a local governing body in a city which not only con-

tains nearly four millions of inhabitants, but is also the seat of Imperial Government. The surrender by the Corporation of London of its very limited police authority would be a trifling sacrifice to make for the privilege of becoming the central force of the most powerful commune in Europe.

There are also special reasons why the London School Board, having set an example of municipal statesmanship to other local councils of the Metropolis, should not be swallowed up by a new municipality of London. All such changes as we have been contemplating in the present organization of Local Government must needs be experimental; and all experimental changes in politics should be made tentatively, so that a false step may be easily retraced. The London School Board itself has not yet ceased to be on its trial, but it has already taken root and borne excellent fruit—the best proof of vitality, and the best claim to preservation. The mere fact that it has won the confidence of London parents, London schoolmasters, and London clergymen, entitles it to be treated with respect, for the confidence of the people is the very breath of life to local institutions. All lasting forms of government have either grown out of or grown into national habits; but forms of Local Government are, above all others, dependent for their success on this condition. It is sometimes possible to enforce tyrannical laws upon a whole people by Imperial power; but it is not possible to make unwilling men serve heartily, and unprincipled men serve honestly, in local offices, or to keep the machinery of local administration in working order, if many of the wheels have the will—as all have the power—to put themselves out of gear. Let us, then, dismiss the notion that any single Act of Parliament, though it were passed unanimously by both Houses, could regenerate all the local institutions of this country, or even give effect to such modest practical conclusions as our reasoning may have led us to adopt. Centuries were needed to develop the ancient system of local government in England, to mould it into accordance with mediæval feudalism, and to accomplish the disintegration which it underwent between the Reformation and the Reform Act. The forty years which have since elapsed have done much to revive its spirit, and to constitute powers which, duly har-

monized, would enable it to fulfil its legitimate ends; but the process of harmonizing these powers has barely commenced, and will hardly be completed in less than one generation.

But it may be asked whether, after all, the benefits to be attained by a gradual reconstruction of Local Government in England would repay the efforts which it would assuredly cost to attain them. This is a question which no true reformer will shrink from putting to himself, and in answering which he will prefer to err on the side of moderation. Let it be confessed that political miracles are not to be wrought by safe methods in quiet times, and that even the ultimate result of measures like those which have been considered would fall very far short of the heroic legislation ascribed to Alfred, or the imposing creations of the French Revolution. They could not galvanize into life the Local Government of those bygone ages, with their picturesque variety of provincial institutions, when the law of gavel-kind was but one of many customs which divided English counties from each other, when local and personal allegiance was often stronger than national allegiance, and when the Great Council of England was little more than a federation of local assemblies. They could not give back to English society the warlike burghers who upheld the Saxon traditions of self-government against Norman kings, or the sturdy yeomanry who fought at Cressy and at Agincourt, or the gentry who devoted their whole lives to magisterial duties in days when London and the Continent were comparatively inaccessible. Neither would they satisfy the requirements of the *laissez-faire* doctrine—too palatable to political indolence and selfishness—which acquits the Imperial Government of almost all responsibility for the acts of local governing bodies, as well as of individual citizens; nor would they realize the aspirations of those who seek to invigorate Local Government with the ulterior design of enfeebling the capacity of Imperial Government for mischievous activity. Nevertheless, so far as they should actually invigorate Local Government, they would reconcile, by a happy necessity, two conflicting ideals, building up conservative barriers or breakwaters against revolutionary flood-waves, yet gratifying the democratic instinct which craves for greater communal liberty. By opening a wider career

to municipal patriotism, and supplying a missing link between Municipal and Parliamentary representation, they would not only contribute to make civic offices more attractive to men of ability and social position, but would also give such men stronger motives for public-spirited exertion. By restoring to rural communities the idea of common rights and duties, they would help to diffuse among their various members a sense of local responsibility now almost confined to landowners, and they would help to bring landowners themselves within the reach of local opinion. By accustoming representatives of all classes to work together daily for public but non-political objects, they would strike at the root of those class prejudices, mainly springing from mutual ignorance, which are not corrected, if they are not rather aggravated, by the rare and boisterous association of rich and poor voters at Parliamentary elections. By relieving the national Legislature of purely local business which ought never to have been cast upon it, they would set free a large reserve of legislative energy for purely national business, which no local body can discharge at all, but which the Legislature, overburdened as it is, cannot discharge efficiently. And thus, without encroaching on the province of Imperial sovereignty, or outgrowing the humbler and homelier ministrations which are its characteristic function, Local Government in England might once more become a great constitutional power, intermediate between the State and the individual citizen, the permanent bulwark of social order, and the national school of civil liberty.

A POLITICAL CRISIS IN CANADA.

November, 1873.¹

(To the Editor of the "*Times*.")

SIR,—Having passed several weeks in Canada, while the excitement caused by the "Pacific Railway Scandal" was at its height, and having attended the debate on the Address in the Parliament at Ottawa, I venture to believe that a short account of so memorable a passage in Canadian history may be acceptable to some of your readers. The origin and earlier stages of this political crisis have been so fully noticed and so fairly explained in the *Times* that I do not think it necessary to recapitulate them, but assume the public to be familiar with the circumstances under which the Canadian Legislature met for an extraordinary Session on the 23rd of October.

The Parliament House at Ottawa is justly admired as one of the finest buildings in the New World, and the Senate Chamber, with its floor and galleries densely crowded, presented a brilliant spectacle when the Commons were summoned thither by a model Black Rod, to hear the Speech from the Throne, which Lord Dufferin read, according to custom, in French as well as English. The paragraph referring to the Commission was skilfully, not to say deferentially, worded, treating the results of the Commission simply as materials to be used or cast aside by Parliament at its discretion. On the retirement of the Commons to their own Chamber, it was expected by many that a debate would at once be raised on the question of Privilege supposed to be involved in the Prorogation, or, at least, in the subsequent appointment

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of the Royal Commission. However, more prudent tactics were adopted, and not only was no preliminary issue taken on the question of Privilege, but no serious resistance was made to Sir J. Macdonald's appeal for an adjournment from Thursday, the 23rd of October, to Monday, the 27th of October, to give members an opportunity of reading the Commission Report, and other papers laid upon the table. On Monday afternoon Mr. Mackenzie, as leader of the Opposition or "Grit" party, rose to move the following amendment to the second paragraph of the Address :—

"We have to acquaint his Excellency that by their course in reference to the investigation of the charges preferred by Mr. Huntington in his place in this House, and under the facts disclosed in the evidence laid before us, his Excellency's advisers have merited the severe censure of this House."

An amendment to this amendment was moved by Mr. James Macdonald, of Pictou, in Nova Scotia, recognizing with regret "the outlay of money by all political parties at Parliamentary elections," and the propriety of inquiring into it, but expressing unabated confidence in the Government. The debate on these amendments lasted five consecutive evenings, after which it was adjourned over Saturday and Sunday, resumed on Monday, continued on Tuesday, and not finally concluded, when Sir John Macdonald, finding the contest hopeless, retired from the field and placed his resignation in Lord Dufferin's hands. Mr. Mackenzie was at once sent for, and had succeeded by Friday in forming a Ministry, after which Parliament was prorogued, and will probably not be convened again before February next. It was understood from the first that Mr. Blake, the chief Parliamentary orator of the Opposition, was determined to follow Sir John Macdonald, who on his part naturally wished to reserve his defence until Mr. Blake had spoken. A full week had been wasted in this waiting race, when at last Sir John Macdonald, though labouring under severe physical exhaustion, roused himself to an effort comparable with Lord Palmerston's famous *tour de force* in 1850, and Mr. Blake replied by an elaborate analysis of the evidence, which seems to have virtually closed the debate. It is not my purpose to attempt a report, or even a bare epitome, of the speeches made in the course of so prolonged a discussion.

All that I can do is to record some of the impressions left upon my own mind by the working of the Canadian Parliament at a juncture when its political machinery was in violent motion, and all felt the honour of the nation to be vitally concerned.

The very comprehensive terms of Mr. Mackenzie's amendment enabled its supporters to impeach the Government on several different grounds,—some indicated in Mr. Huntington's original motion, and some arising out of subsequent events. Of this liberty the Opposition members availed themselves freely, and the Government was compelled to defend itself—first, against the charge of having directly betrayed Canadian interests for gold to Messrs. Jay Cooke and other American speculators; secondly, against that of having committed an offence but one degree less flagrant, by selling the Pacific Railway concession to Sir Hugh Allan; thirdly, against that of having corrupted the constituencies with money received from Sir Hugh Allan under circumstances, at least, of grave suspicion; fourthly, against that of having advised the Governor-General to strain the Royal Prerogative, so as to screen themselves by a summary prorogation of Parliament, and consequent transfer of the inquiry to a Commission emanating from the Crown. No doubt, the amendment was made to cover this last topic with a view to meet the sentiments of deserters from the Ministerial side, who had committed themselves to a censure of the Prorogation and Commission, but could not be trusted much further. It was probably thought politic, however, not to lay too much stress on it after the publication of Lord Kimberley's despatch; at all events, it filled a much less prominent place in the debate than in the previous newspaper controversy. The real battle-ground was the negotiation with Sir Hugh Allan respecting the Pacific Railway contract, and the Government was, in my opinion, perfectly successful in repelling the first two charges, which constituted the gravamen of Mr. Huntington's motion. After following the evidence with some care, and listening attentively to many elaborate analyses of it from a hostile point of view, I feel bound to acquit Sir John Macdonald of having actually sold or conspired to sell the Pacific Railway contract either to foreign capitalists or to Sir Hugh Allan himself. Whatever construction may be put on the

letters signed on July 30th, 1872, by the late Sir George Cartier, I see no proof or presumption whatever that Sir J. Macdonald entered into any agreement with Sir Hugh Allan in consideration of his pecuniary aid, while there is conclusive proof that Sir Hugh's expectations were not fulfilled. Nor was any attempt made to show that any part of these large funds was expended in bribery; indeed, the Opposition apparently shrunk from a general inquisition into the expenditure on both sides at the last election. What is proved, or rather what is acknowledged by Sir J. Macdonald himself, is that, being Prime Minister and trustee of a grand public undertaking, he not only accepted but solicited contributions, for electioneering purposes, from a man then seeking to obtain control over that undertaking, and who could not but look for his reward in an advantageous charter. Had the Opposition been content to rest their case on this single point, and to state it without exaggeration, their position would, I think, have been morally stronger. Had Sir John Macdonald anticipated their attack by frankly taking blame to himself for a grave error of judgment, in this respect, he might have retained the allegiance of some who most reluctantly declared against him. As it was, the studied vagueness of the amendment gave scope for an indefinite latitude of accusation and recrimination. The Opposition speakers represented the Pacific Scandal as the climax and crowning enormity of a corrupt system whereby Sir John Macdonald had long been demoralizing the country. The Government speakers retorted by representing the Opposition leaders as the avowed or secret advocates of a narrow sectional policy, dictated by Orange prejudices, and petty ideas of economy, adverse to Canadian unity, yet tending, if not designed, to bring about separation from the Mother Country. A considerable part of the debate was consumed in raking up Provincial quarrels, supposed to have been settled by Confederation, and it was clear that both front benches were compassing sea and land to make proselytes among the waverers from the Maritime Provinces, especially the new members from Prince Edward's Island.

During my stay at Ottawa, it was impossible not to be struck by the malicious credulity of Canadian party spirit, and the

extreme lengths to which party warfare is carried at the instigation of a most virulent and unscrupulous Press. I was constantly assured that Sir J. Macdonald had advised the Prorogation for the sole purpose of gaining time to buy off opponents, and was deliberately spinning out the debate while his agents were employing the basest means of winning back defaulters. On the other hand, I was gravely informed, with particulars of names and circumstances, that persons connected with the Northern Pacific Railway were paying down hard cash for promises to vote against Government, in the hope of frustrating the rival scheme of a Canadian Pacific Railway. In short, there seemed to be nothing which Canadian "Liberals" and "Conservatives" were not prepared to believe of each other; and I must add that both were able to cite facts in some degree excusing their want of charity. Unfortunately for the Opposition, the most recent and notorious acts of foul play had been committed, to say the least, in their interest. The first series of papers on which these accusations were founded had been stolen by a clerk from a private desk, and communicated to an Opposition journal while the Parliamentary inquiry was still pending. A few weeks later, a confidential letter from Sir John Macdonald to one of his colleagues was abstracted from the post-office, and found its way into the hands of three leading Oppositionists, all men of high standing and reputation, who, after consulting together, agreed to publish it, and justified themselves for so doing. It is fair to observe that neither Mr. Mackenzie nor Mr. Blake was shown to have been implicated in these dishonourable transactions, but the party which had profited by them cannot be said to have come into court with clean hands.

Considering how great had been the irritation produced by such incidents as these, and how sedulously it had been fomented by newspaper writers, the debate was, on the whole, characterized by tolerable moderation of tone and abstinence from personalities. The language used was, indeed, more incisive and less measured than we are accustomed to hear at Westminster, and I sometimes ask myself whether the most animated of our Parliamentary speakers would not be regarded as tame and spiritless by the Canadian Legislature. Still the

rules of the game, so to speak, were evidently the same, and, even when the hitting was hardest and wildest, what Lord Dufferin aptly calls "striking below the belt" was very rare. One gentleman went so far as to accuse another of having taken money out of the Provincial Treasury and applied it to electioneering corruption, but when he proceeded to press the matter home, he was checked by the sense of the audience. Perhaps Canadian skins are thicker on the average than are developed in an old country and a temperate climate; certainly the wounds inflicted did not appear to rankle, social intercourse was hardly interrupted, and the combatants met at the Rideau Club on the same terms of friendly enmity as those which prevail among barristers at the circuit mess after the fiercest encounters in court. The whole temper of the debate was distinctively English, and not American. In the most vigorous sallies and retorts there was usually a tacit assumption of honest and patriotic motives, and if few speeches were seasoned with classical quotations or literary allusions, none that I heard was disfigured by ambitious bombast. The only serious departure from the unwritten law of the House of Commons that came under my notice, was the bold insinuation, or rather the positive assertion, made by Mr. Mackenzie, and repeated by another member, that Mr. Speaker had been guilty of "collusion" with the Government in respect of the Prorogation. But for this violation of a salutary etiquette, I should have carried away the conviction that, in all essential points, the Canadian Parliament had faithfully reproduced the spirit, as well as the form, of English Parliamentary procedure.

In one virtue—if, indeed, it be a virtue—of a deliberative Assembly, the Ottawa Parliament assuredly excels our own. Its forbearance under the most wearisome iteration of facts and arguments was truly exemplary, and I do not remember to have witnessed a single demonstration of impatience, as speaker after speaker indulged in a long prelude and went on to deal with every part of the case, as if no one had preceded him and no one was to follow him. Two debaters of the second rank thus consumed a whole Parliamentary day, extending from half-past three until seven, and from half-past seven until midnight or

later, and the second had not concluded his remarks when the House adjourned for the night, but continued them on the next afternoon. When I expressed surprise at such inordinate prolixity, I was told that constituencies liked their representatives to show a capacity for making a speech of several hours; but I am rather disposed to attribute this, with some other habits of the Canadian Parliament, to another cause—the great preponderance of lawyers among its leading men.

It is remarkable that, before the battle commenced, both sides professed the utmost confidence in the issue. The "Grits," however, depended entirely for their prospect of victory on the maintenance of a coalition with candid friends of the Government, and imitated the generalship of Mr. Disraeli in 1866, by leaving the post of honour and danger to their new allies. As these rose successively from the Government benches to "define their position" in a sense adverse to the Government, the estimated majority gradually dwindled from twenty or thirty down to two or three. Meanwhile, it was easy to see that party organization and discipline were equally weak, according to English notions, on both sides of the House. The very "whips" declared themselves quite unable to predict what course the debate would take, who might or might not speak, and on what night the division might be expected. The crisis being one which had not been contemplated at the general election of last year, every member claimed to be *ad hoc* an independent member, and I suspect that some, intending to use their liberty of action on the winning side, encouraged both sides to count upon their votes.

In preferring resignation to defeat, and thereby sparing many of his old followers the pain of actually taking part in his downfall, Sir John Macdonald has probably chosen the course best calculated to hasten his return to power. For the sake of Canada, I cannot regret that even his great services and ability have not been allowed to outweigh the paramount duty of vindicating public morality. However triumphantly he may have cleared himself of the grosser charges against him, there still remained a charge which he could not answer—the *parum cavisse* of Roman law,—and it was not faction, but conscientious reprobation, which really determined the verdict on this charge. His

unrivalled experience cannot, it is true, be replaced, but in Canada, as in England, it is not expedient that one Minister or body of Ministers should acquire fixity of tenure in office, and an occasional change of Government is by no means an unmixed evil. The character of Mr. Mackenzie himself stands high, and though he does not seem to have obtained the co-operation of Mr. Blake, I observe in the published list of his Cabinet the names of several gentlemen whose adhesion will inspire confidence. There is no reason to apprehend any mischievous reversal of Sir John Macdonald's general policy, and, so long as it is not reversed, there is political honour enough in what is now the Opposition to secure the new Ministry a fair trial.

It was inevitable that such a debate as that which I witnessed should incidentally throw some light on the prevailing sentiments of Canadians towards Great Britain and the United States. That which first roused public indignation against the Ministers, was not the discovery that Sir John Macdonald had played the part of election agent for the Government, but a false story that a railway on which the political destinies of Canada were in some degree staked had been treacherously delivered over into the power of an American Ring. Making every allowance for the share which party spirit may have had in stimulating this indignation, I cannot doubt that it was spontaneous, and no one carefully watching the political drama at Ottawa could fail to arrive at the conclusion that, for the present, nothing is so unpopular in Canada as American influence. On the future relation of Canada to her powerful neighbour there was less reticence than I should have anticipated, and more than one speaker openly declared, what I had often heard said in private, that, in the opinion of all sensible Canadians, Independence would practically be nothing but a step towards Annexation—a measure which no public man in Canada dares to advocate, and which, so far as I could learn, is repudiated by all classes except a small mercantile circle at Montreal. It is easy to sneer at Canadian loyalty, but if by loyalty is meant fidelity to the Crown as the golden link between Canadians and the Mother Country, of which they habitually speak as “home,” I, for one, believe the feeling to be the

mainspring of Canadian politics, to have been materially strengthened by Confederation, and to be almost as universal in the Maritime Provinces as in Ontario. This deep attachment to British nationality is not inconsistent with a certain jealousy of British interference with Canadian legislation, such as was manifested in some barely respectful allusions to the opinions of the Privy Council and the law-officers of the Crown on the validity of the Oaths Bill. Nor is it to be treated as transitory, because it is difficult to conceive of Canada, with her population quadrupled, still content to be a dependency, or because the law of geographical necessity is supposed to require her junction with the United States. Let us compare realities with realities, and ideals with ideals: Canada, as it is, has no reason to desire, and does not in fact desire, annexation to the American Union, as it is; Canada, as it might be if Confederation should realize the visions of its founders, may perhaps be still less willing to exchange an almost nominal dependence on London for a real dependence on Washington, even though Washington should then be the capital of a Republic numbering 100,000,000 citizens. Happily, the disposal of their allegiance rests entirely with the Canadian people, and can hardly become a subject of dispute between Great Britain and the United States. Until the voice of the Canadian nation pronounces decisively in favour of annexation, it cannot be the policy of the United States to propose annexation; if ever, and whenever, that day shall come, it cannot be the policy of Great Britain to oppose annexation.

I am, Sir, your obedient servant,

GEORGE C. BRODRICK.

London, Nov. 17, 1878.

LETTERS ON UNIVERSITY REFORM AND THE FELLOWSHIP SYSTEM.

1876.¹

THE OXFORD UNIVERSITY BILL.

To the Editor of the "Times.")

SIR,—We have now before us a series of recommendations, in the nature of amendments, on the Oxford University Bill, all of which have been adopted, and all but one of which have been unanimously adopted, by the Oxford Convocation. We have also an explanatory statement from Lord Salisbury, made in reply to a question from Lord Lansdowne, defining with remarkable clearness the general policy of the measure. I desire, with your permission, to offer a few remarks suggested by a perusal of the University Memorial and Lord Salisbury's declarations.

The University Memorial does not purport to be, in any sense, an exhaustive criticism on the Bill. It does not point out the absence of any provision for reforming the mischievous constitution of "Congregation," whereby a mixed multitude of chaplains, parochial clergymen, and other resident Masters of Arts is enabled to swamp the votes of working Professors and Tutors on strictly educational matters. It does not, of course, notice the absence of any provision for restricting the powers of Convocation itself, and it takes no cognizance of those provisions specially affecting Collegiate interests on which it is known that separate memorials have been, or will be, presented by the Colleges. Nevertheless, it discloses a number of blemishes, well

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deserving of serious reflection from those who imagine that it is no light thing to undermine the settlement made by the University Reform Act of 1854. It shows, for instance, that by significantly elevating "research" to an equal place with "religion and learning," among the primary objects of the University, the paramount claims of education are tacitly but effectually thrust aside, and that, while "the maintenance and benefit of persons of known ability and learning" is particularly specified as a proper destination for College revenues confiscated to University purposes, no similar encouragement is held out in the form of Scholarships to struggling men desirous of obtaining University education as unattached students. It directs attention to the fact that, whereas the Commissioners will be armed with *carte blanche* instructions, and whereas no adequate basis of reform is laid down in the Bill itself to guide their discretion, the Queen in Council is not empowered to review their decisions on the merits, but only to refer objections, on the score of legal invalidity, to the Judicial Committee. It protests, with laudable self-distrust, against the absurdity of requiring all future alterations of statutes made by the Commissioners for Colleges to be sanctioned by the University Legislature, whether they concern the University or not. It recognizes the ambiguity which surrounds the probable operation of Section 42 upon new University or College offices, and virtually deprecates any indirect repeal of the University Tests Act.

Such recommendations, coming from such a body as the Oxford Convocation, will doubtless carry great weight, but we may well ask ourselves how a measure so important came to be so crudely prepared as to exhibit the blemishes here indicated. The answer is given in the able letter of Mr. C. P. Gilbert, published in the *Times* of Saturday. This Bill is not framed upon lines marked out by any previous Commission, but upon the private notions of Lord Salisbury himself, and those whom he may have seen fit to consult. The consequence is, that it leaves untouched several anomalies of which there have been urgent complaints, while it is at least capable of being so worked as to destroy the most distinctive and valuable features of the English University system. Nevertheless, I should not be prepared to

advocate its summary rejection, even if I had the power to enforce my own views; nor am I satisfied that a preliminary inquiry before a Select Committee of the House of Commons would be productive of all the advantages anticipated by Mr. Ilbert. Doubtless, a Select Committee might do much to correct the numerous defects in the Bill, as well as to gather up University opinion into a focus on the principles to be carried out by the Commission, but it would not be an effective security against the piecemeal and inconsistent application of those principles. Even the Commission of 1854, though it acted under far more specific instructions, fell into the error of making a separate bargain with each College, and the want of uniformity in the institutions founded by them is one ground of the present demand for new legislative interference. In my opinion, what is most essential is that, by some means or other, Parliament and the public should be duly apprised, before it is too late, of the general plan upon which the Commissioners intend to reconstruct the University and the Colleges. Whether this should be done by treating each scheme made by the Commissioners as merely provisional, until they should have laid all their schemes collectively before Parliament, or whether they should be required to make a preliminary report embodying an outline of their proposed legislation, I would not undertake to determine. But I venture to maintain, without reserve, that no body of Commissioners, be they who they may, can be safely trusted to regulate the relations between the Colleges and the University with no other directions than are contained in the Bill and in the speeches of the Chancellor.

Whatever else may be thought of these speeches, they assuredly set forth with admirable precision the dominant idea which underlies the Bill. That idea is the substitution of a centralized University organization for the old College system. The importance of the question so raised dwarfs, in my estimation, that of all the exceptions urged in the University memorial. I do not even care to dwell on the strange omission to designate the body or bodies to which is to be confided the immense patronage expected to result from the appropriation of College property. Nor do I stop to inquire how far it was politic or

becoming to avow the design of bribing physical science into orthodoxy by promising it the lion's share of the spoils. I am content to join issue on the well-considered words reported to have been used by Lord Salisbury on Monday evening:—"The object of the Bill of 1854 was to apply the revenues of the Colleges for the benefit of the Colleges themselves. The object of the Bill now before their lordships' House was to apply them, not for the Colleges, but for the University to which the Colleges belonged. The statutes under the Bill of 1854 proceeded on what was conducive, not to the interests of the University, but to the interests of the Colleges; those to be drawn under the present Bill would proceed on what was conducive, not to the interests of the Colleges, but to the interests of the University."

If this means anything, it means that under the present system the interests of the Colleges are at variance with the interests of the University, and that it is necessary, for the good of the University, to weaken and impoverish the Colleges. Now, I am one of those who hold the very reverse of both these propositions, and I will take the liberty of stating a few of my reasons. I believe the College system to be the very life and soul of the English University system, enabling it to realize a higher ideal—not of self-culture, but of education—than is realized in any other country. I believe the College Tutor, by virtue of the several functions which he combines, to be capable of rendering the University educational services of a kind which cannot be rendered by any mere Professor, without a personal knowledge of those who attend his lectures, or any moral responsibility for their conduct. I believe that, except in Physical Science—where there are special reasons for a concentration of teaching—Oxford Tutors have actually done more, not for education only, but for learning, than Oxford Professors, and that, in respect of conscientious devotion to duty, they would gain largely by a comparison. I believe that, since 1854, the rival systems have been fairly tried side by side, in several important subjects; that in many instances Professorial classes have been gradually thinned by the superior efficiency of Collegiate lecturing; and that it is much easier to multiply Profes-

sors than it is to save them from the humiliation of addressing empty benches. I believe that Fellowships, awarded as they now are by academical merit, are the mainspring, or *primum mobile*, of English University education, as well as of the College system. I believe that, by means of them, all the learned professions and the upper ranks of society have been leavened with an intellectual element which can ill be spared in English society. I believe that, without them, the attraction of money-making pursuits would prove altogether too strong for the attraction of Professorial instruction, and that Oxford would be deserted by many of its most energetic students. I believe, after careful investigation, that Fellowships are seldom won by young men of more than limited means, and that, as a rule, they stimulate rather than enervate the industry of their holders. I believe that a given sum of money wisely expended in Scholarships and Fellowships would, in general, produce a larger return to literature or science than if it were expended in endowing "research," and creating a scientific aristocracy. All these convictions may, perhaps, be erroneous, but they are shared by a vast number of those best acquainted with the English Universities, and I hope they will receive due consideration in both Houses of Parliament. On the other hand, few reasonable men will dispute the possibility of introducing beneficial changes into the College system and the ordinary tenure of Fellowships, or of developing, in certain directions, the provision for Professorial teaching. Happily, these changes are very simple, and the needful development of Professorial teaching is consistent with a perfect harmony of University and College interests. Let all Fellowships, as such, be terminable, but capable of being prolonged in favour of Fellows engaged in College or University service; let Professorial chairs be attached to Colleges, and let a moderate number of Fellowships be suspended for their endowment; let College lectures be organized under Professorial superintendence, and Colleges be fairly taxed for University purposes, including, not so much pensions for Professors of research as special grants for special work, and little more will be required. In a word, let Parliament instruct the new Commission, instead of dismembering the Colleges, to make them more living and organic

members of the University than ever, and, instead of dealing with them as raw material for experimental constructions, to enlist the Collegiate spirit on the side of a comprehensive University reform.

I remain, your obedient servant,

GEORGE C. BRODRICK.

London, March 22, 1876.

A DEFENCE OF FELLOWSHIPS.

(To the Editor of the "Times.")

SIR,—Of all the questions involved in the pending reform of the Universities, the question concerning the utility of College Fellowships is certainly the most important, as it is probably the least understood. If a large part of existing College revenues, as distinct from any prospective surplus, is to be confiscated for University purposes, the fund now appropriated to Fellowships is practically the only considerable fund on which the Commissioners will be free to operate. It is admitted that no great saving can be effected on the very economical management of College estates. It is evidently not intended by Lord Salisbury that any grants should be withdrawn from the augmentations of College livings, if, indeed, it be not intended to secure those augmentations. No one proposes to reduce the number or value of College Scholarships; Parliament has even shown a disposition to increase the salaries of College Tutors, and the incomes of Headships are expressly protected by the Oxford University Bill. It follows that any substantial contribution which Colleges may be required to make out of their present revenues to University objects—whether it be for the extension of buildings, the development of the Professoriate, or the encouragement of "mature study and research"—must be made, in one form or another, at the expense of the Fellowship system. This design is frankly avowed by Lord Salisbury himself, and it is fair to admit that Lord Salisbury's views are here shared by many University reformers of a very different type. The question concerning the utility of College Fellowships is, happily, no party question. There are those who chiefly value the Universities as strongholds

and seminaries of the Church, yet who are radical opponents of the Fellowship system ; there are those who regard that system as the mainspring of English University education, yet are eager to banish from it every vestige of ecclesiastical ascendancy. It is therefore possible to discuss the merits and demerits of College Fellowships on purely academical or purely national grounds. Speaking from this point of view, I am anxious to state a few of the reasons which convince me that not only academical education and learning, but the whole tone of national culture, would suffer grievously, and perhaps hopelessly, by any wholesale suppression of College Fellowships. Before doing so, however, I will ask your permission to explain, for the benefit of your non-academical readers, one or two points which University men sometimes treat as if they were self-evident.

Much has been said lately of " sinecure Fellowships," " prize Fellowships," " non-resident Fellowships," " idle Fellowships," and the uninitiated public is naturally led to suppose that Fellowships are divided into two classes—the one subject to conditions of residence, and in the nature of a salary for tuition ; the other subject to no condition of residence, and in the nature of a mere pension. The fact is that, with rare and trifling exceptions, all Oxford Fellowships are held on precisely the same tenure, save that some are confined to persons in or about to enter Holy Orders, while others are equally tenable by laymen or by clergymen. All Oxford Fellowships, with rare and trifling exceptions, are open to members of any College in the University, and are awarded as prizes for academical merit, tested by competitive examination ; all are liable to be forfeited by marriage, but may otherwise be held for life ; all are sinecures, in the sense that no legal obligation to reside or teach attaches to them, although every Fellow is legally bound to serve his College if summoned thereto, and morally bound to participate in its administration. Some are induced by the attractions of College life, by the offer of a moderate but immediate income, by the love of learning and teaching, or by a shrinking from professional struggles, to accept the position of a College Tutor ; others go abroad into the world and launch into active careers, educational or non-educational, as the case may be ; a very few

are tempted, by the early possession of a competence, to lounge or dream away the best part of their lives either at the University or elsewhere. So far as I have been able to ascertain by careful inquiry, I should estimate that fully half the Fellows of Oxford Colleges are resident, that nearly all the resident Fellows are engaged in public or private tuition, and that a considerable proportion of the non-resident Fellows are engaged in education as masters of schools or otherwise, the rest, with a very few exceptions, being members of learned professions. But all of them are equally sinecurists, in respect of their Fellowships, since they are all equally entitled to draw their dividends, wholly irrespective of the occupation which they may, or may not, be following. This being so, it is a perfectly legitimate question whether the expenditure of somewhat less than £100,000 a year on some 350 such Oxford Fellowships is defensible on grounds of national policy. True, £100,000 a year is far below the rental of some landowners, and the income of some capitalists, less than an eighth of what is stated to have been pocketed in one year by one nobleman fortunate enough to combine both these capacities—a mere bagatelle compared with the sums expended in gunnery experiments at Shoeburyness, or in coating one man-of-war after another with armour perilous to its buoyancy. Still, it is £100,000 of public money, as all seem to be now agreed, and it is not enough to show that no other £100,000 of public money is expended better, unless it can also be shown that, upon the whole, the present application of it is good in principle and in practice. This is all that is maintained by reasonable advocates of the Fellowship system, and it may be useful to point out some positions which they do not maintain. They do not maintain that no improvement of this system is possible; on the contrary, a great majority of them are in favour of substituting a fixed term of years, without any restriction of celibacy, for the present celibate life tenure. Nor do they maintain that Fellowships might not be rendered more directly conducive to the promotion of education and learning; on the contrary, most of them would be in favour of allowing Fellowships to be retained beyond the ordinary fixed term by persons engaged in College or University service, while many would desire to see College

Fellowships attached to all, or nearly all, the Professorships. Nevertheless, if I were compelled to choose between retaining the Oxford Fellowship system exactly as it is—with the clerical restrictions and the rule of celibacy still in force—and sweeping away that system altogether, I should pronounce, without the smallest hesitation, for the former alternative. It is little to say that such was the deliberate opinion of the last Oxford University Commission, for the Fellowship system now established is the principal creation of that Commission; but, if I do not fortify myself by their authority, it is solely because no authority whatever can be so decisive as experience.

On the evidence of experience, then, I submit that open competition for Scholarships and Fellowships, coupled with the institution of class lists in degree examinations, has done more for the revival of education and learning at Oxford than all the efforts of Professors and Tutors, or all other agencies put together. Those who speak with scorn of honours and emoluments as incentives to academical industry, and profess to believe that young men would read more earnestly and to better purpose without hope of distinction or reward, would do well to look back at what has been justly called "the abject state" of Oxford education in the last century. That should, indeed, have been the golden age of disinterested study. There were no honours awarded in the University examinations, so that each student was free to follow the bent of his own genius, and though Fellowships existed, they were mainly confined to privileged schools and localities, or distributed by personal favour, so that knowledge was its own reward. The consequence was a stagnation both of education and of learning worthy of the Dark Ages. The first step towards improvement was the Examination Statute of 1800, which initiated the system of "classes;" the second was the wise example set by one or two Colleges in throwing open their endowments to merit; the last was the extension of this policy to all the Colleges of Oxford by the Commission of 1854. In the twenty years that have elapsed since the work of that Commission was completed, the educational life of Oxford has been doubled in amount, and more than doubled in variety, notwithstanding that it was long before

the expiration of vested interests brought the new system into general operation, and that it has not even yet produced its full effects. Not only has the number of students graduating with honours largely increased during this period, but new branches of study have been introduced, the standard of attainment in the old branches of study has been materially raised, College tuition has become more efficient, and Oxford now contains a considerable body of men, besides its Professors, cultivating letters and science for their own sake. I do not, of course, assert that all this accession of intellectual activity is due to the opening of Fellowships, but I do assert, and that without fear of contradiction, that no other reform has been nearly so powerful in sustaining a high standard of reading and a constant supply of men competent to fill Tutorships and Professorships. This stimulating effect of Fellowships is clearly illustrated by the comparative vigour of different studies at both Universities. If mathematics are both taught and learnt with greater success at Cambridge, it is chiefly because mathematical honours are still the surest passport to Cambridge Fellowships. For a converse reason, classics have long maintained a like supremacy at Oxford, though it is easier to obtain a first class in any of the non-classical "schools," and those of the non-classical "schools" which are observed to flourish most are just those which have received most encouragement in the substantial form of Fellowships. Nor is this due to any special vice of the English University system. For want of Fellowships, the more advanced academical studies notoriously languish in the Scotch Universities, notwithstanding the ability of their Professorial staff, and would languish far more seriously, were it not that some of their most promising students are induced to work on by the prospect of ultimately winning Fellowships at the English Universities. The very same difficulty in retaining clever students up to the age of intellectual maturity, without the aid of Fellowships, is a well-known subject of complaint in American Universities; and if it is not equally a subject of complaint in German Universities, the cause must be sought partly in the peculiarly German respect for intellectual eminence, and partly in the German State patronage of Universities and professions.

Yet there are not a few University reformers who, regardless of these facts, regard "Prize Fellowships" as superfluous, because, as they allege, their ideal student, having been enabled by Prize Scholarships to complete his education at a moderate cost, may be safely left thenceforward to shift for himself. So reasoned the simple country folk who killed the goose that laid the golden eggs. There is something, indeed, to be said for luring the imaginary student onwards with the promise of a Fellowship, and then cajoling him out of it; nor is it impossible that, in his desperate efforts to retrieve his disappointment, he might distinguish himself as much in after life as if he had gained the object of his ambition. But there is nothing to be said for holding out no such expectation to him, and I am firmly convinced that if Oxford had Scholarships without Fellowships, and Cambridge had Fellowships without Scholarships, the former University would be very soon dwarfed by the latter. However valuable Scholarships may be in attracting young men of small means and high capacity, it is certain that most of the best candidates for Scholarships look forward to winning Fellowships, and that, but for this hope, many of them would never come to the University at all. Not that young men of this class are specially actuated by mercenary considerations. On the contrary, they are remarkable for their superiority to mercenary considerations, and would often be willing to spend precious years of life in contending for a laurel or a parsley crown. But parents are not quite so unworldly, and daily experience shows that shrewd men of business have a wholesome dread of the non-utilitarian tastes and aspirations fostered by Oxford and Cambridge. Assuredly it is no time for the abolition of Fellowships, when academical culture is pressed more and more keenly by the competition of money-making, and when more and more youths, capable of the highest Academical culture, are rising by means of Scholarships from the lower ranks of society.

But it is often asserted with great confidence that Oxford, with all her Fellowships, does very little for Literature and Science. If this assertion were true in fact, it would not prove that Oxford, without Fellowships, would not do still less, while it implies the untenable assumption that the promotion of

Literature and Science, and not the education of English youth, is the primary duty of an English University. I am prepared, however, to maintain that it is not true in fact. No doubt fewer monographs issue from Oxford than from some German Universities, and the ablest Oxford teachers apply themselves more assiduously to cultivating the minds of their pupils than to enhancing their own reputation, or even to advancing by a few inches the frontier of their own specialities. But I cannot for a moment admit that for the last twenty-five years, during which I have been connected with the University, Oxford has been at all barren either of literary or of scientific results. When I look down the list of Oxford Professors, I find there several names of European reputation, and when I look outside that narrow pale, I am fully satisfied that Oxford will have no reason to be ashamed if she must speak with her enemies in the gate. In the domain of Theology I recall the names of Pusey, Mansel, Stanley, Mozley, and Liddon; in that of Classical Scholarship, the names of Liddell, Scott, Conington, Robinson Ellis, Nettleship, and Wordsworth; in that of Philology, the names of Max Müller and Sayce; in that of History, the names of Freeman, Stubbs, Froude, Pearson, Shirley, Gardiner, and Bryce; in that of Philosophical and General Literature, the names of Jowett, Pattison, Matthew Arnold, Goldwin Smith, Church, Symonds, Green, and Pater; in that of Mathematical Science, the names of Donkin, Price, Henry Smith, and Spottiswoode; in that of Natural Science, the names of Daubeny, Phillips, Rolleston, Clifton, Odling, and Maskelyne; in that of Economical Science, the names of J. E. T. Rogers and Bonamy Price—besides a host of others, some not less distinguished, which must occur to any one acquainted with the recent literary history of Oxford. Nearly all these authors are or were Fellows of Colleges, and all have published works of acknowledged excellence under their own names. Were it lawful to identify the anonymous writers of articles in literary and scientific periodicals, or to unlock the secrets of journalism, the case would be infinitely stronger. Since this is forbidden, I have glanced over twelve numbers of two leading Reviews—the *Contemporary* and the *Fortnightly*—which admit signed articles, and I find that at least a fourth of

the articles in those Reviews, during the last year, were contributed by Fellows or ex-Fellows of Oxford or Cambridge. Far be it from me to exaggerate the value of such evidence, but I cannot forbear to express the conviction that, while English periodicals and journals contain some of the best and most characteristic products of English thought, it is more than doubtful whether their present high standard of spirit and style would be long upheld, if the supply of scholars and gentlemen were cut off at the fountain head by the destruction of College Fellowships.

For this, after all, is the broad question to be faced, and it is a question of which the bearings extend far beyond the educational or literary world. Even if Fellowships did not operate as a reservoir of teaching power for the Universities and Public Schools, even if they were not required as a counterpoise to the attractions of lucrative careers demanding early apprenticeship, even if the leisure secured by them were more rarely devoted to science or letters, even if their influence did not make itself beneficially felt in all the principal organs of political and literary opinion, it would still remain to be considered whether they do not render the nation good service in liberalizing the professions and English society itself. Certainly the presumptive evidence in favour of this opinion is very strong indeed. If we refer to the clerical profession, we find that fifteen of the English Bishops, and a very large proportion of English Deans, were Fellows of Colleges. If we refer to the legal profession, we find that, although ability without interest no longer commands practice at the Bar, yet three Lord Chancellors within the last twelve years, both the present Lord Chief Justices, and a remarkable number of distinguished living barristers, were also Fellows of Colleges. As I have said elsewhere, "if it were possible to lay before the public a list of Oxford and Cambridge Fellows who have attained leading positions in the great educational profession, in the Law, in Parliament, in the various Government Offices, and even in the commercial world, little more would be heard of the notion that Fellowships quench ambition or bar the road to success; and we might, perhaps, have to combat the counter-objection that

Fellows of Colleges start with an unfair advantage in the race of life."

But it is needless to pursue this line of argument further. It will hardly be denied that not only in every diocese and on every circuit, but in every considerable town, and in most political or social circles, the presence of Fellows or ex-Fellows of Colleges imports an infusion of general culture, if not of special learning. If an excess of intellectual interests and aspirations were the besetting weakness of the upper and middle classes in this country, I could better sympathize with the anxiety of some reformers to get rid of an institution which has so largely contributed to diffuse such interests and aspirations in these classes. If, again, this object could be attained by concentrating all the intellectual energy generated at the Universities within their own sacred precincts, I should be more disposed to accept the counsels of those who desire to found a liberal endowment of "mature study and original research" on the ruins of College Fellowships. For my own part, when I look around me and see both political and social influence almost exclusively shared between men who have received it by hereditary succession and men who have purchased it by a talent for making their fortune—when I see the independent elements of English society well-nigh crushed out between territorial aristocracy and commercial plutocracy—I confess that I regard the £100,000 yearly spent on Oxford Fellowships as among the most profitable of our national investments, and should deplore the withdrawal of it as nothing less than a national disaster. Call these Fellowships "bribes," if you will; at all events, they are bribes of which the effect is to raise the character of the community as well as of the recipient. Call them "pensions," if you will; at all events, they are pensions of very modest amount, awarded strictly according to merit, and yielding an ample return in public benefit. Why the intellectual resources of the nation should be thus impoverished by the sacrifice of Fellowships, is what no one has yet attempted to show. While I am one of those who advocate an increased endowment of teaching at Oxford, and am not even opposed to a discriminating endowment of research, I do not in the least expect as important

results from these measures as have been actually produced by simply opening Scholarships and Fellowships. Still less do I understand why the creation of a new motive power should be supposed to require the destruction of an existing motive power now working so admirably, especially when there is already room enough, and will soon be funds enough, to support both. If such an experiment is to be tried, I should prefer that it should be tried on some other University than my own, for, as Lord Cardwell remarked, in case it should fail, the failure might prove irreparable. When the life and soul of the College system had been extinguished, as it surely would be, with the extinction of Fellowships—when it had been discovered that, for want of materials, the manufacture of Professors and Tutors was sadly deteriorated—when the dearth of liberal culture which all can recognize in America had become manifest in England, the nation would realize at last, but it would realize too late, how deeply, how widely, and how variously, it had been indebted to College Fellowships.

I remain, Sir, your obedient servant,

GEORGE C. BRODRICK.

London, April 17, 1876.

COLLEGE FELLOWSHIPS.

(*To the Editor of the "Times."*)

SIR,—I fear my former letter must have been either excessive in length or deficient in clearness, when so competent and friendly a critic as Mr. Fowler so utterly fails to apprehend its purport.

He understands me to say that "the first duty of an University is to grant pensions of £300 a year to the more distinguished of its younger *alumni*, without attaching any conditions to the grant." I wonder that any one can attribute to me an opinion so absurd, the fact being that I maintain as strenuously as Mr. Fowler that "the first duty of an University is to provide for instruction, and for the advancement of science and learning"—not, however, "within its own walls only," but also in the country at large. The difference between us—and I allow that it is "one by no means unimportant"—mainly turns upon the question

whether these objects are most likely to be attained by an improvement of the Fellowship system, or by a subversion of that system, for the purpose of richly endowing Professorial teaching and "research," as well as of sinking vast sums in new University buildings. For reasons which I have carefully stated, and which Mr. Fowler ignores, I hold the former view, and believe that a revenue of £1000 or £1200 a year, destined for the encouragement of a given study, would generally yield greater educational results, if invested in several Fellowships, than it would yield if invested in one Professorship, and especially in a Professorship of mere "research." As for the supposed necessity of "representing" on the Professoriate branches of learning or science in which there is no actual or prospective demand for instruction, I have yet to be convinced that it is so urgent as to justify the confiscation of College funds. On the other hand, I have expressly condemned the life tenure of Fellowships, and have advocated a large extension of Professorial teaching, in perfect harmony with the College system.

For it is the maintenance of this system, and not merely the maintenance of Fellowships, which is really at stake. Now, if the College system as it is were fairly compared with the Professorial system as it is, or if the College system as it might be were fairly compared with the Professorial system as it might be, I should be fully prepared to abide the issue. But I do protest against comparing the College system as it is with the Professorial system as it might be, and against tacitly selecting as types of the College system, not Balliol or Corpus, New College or University, but Colleges in which the standard of industry is much lower, both among Tutors and among students. Lastly, while I cannot for a moment admit that Mr. Fowler's theory of University organization is that which "finds most favour among residents," I do not think Parliament or the public ought to consider which system may be more palatable, either to residents or to non-residents, but rather, which may best promote the interests of higher education in the University and in the nation.

I remain, your obedient servant,

GEORGE C. BRODRICK.

London, April 22, 1876.

THE UNIVERSITY BILLS.

(To the Editor of the "Times.")

SIR,—In his recent speech on the University Bills, Mr. Lyon Playfair modestly described himself as an "outsider," but he proceeded to claim the merit of superior impartiality, and founded his argument on a series of very positive allegations. As several of these allegations are erroneous, and as such errors are very apt to gain credence when they are put forth by so high an authority, I will ask your permission to correct one or two of them.

According to Mr. Playfair, the Universities of Oxford and Cambridge are unable to fulfil their legitimate function of liberalizing the professions and industrial occupations, "because no person can take honours in these Universities until he is about twenty-three or twenty-four years of age." The fact is that many take honours at twenty-one, that most take honours at about twenty-two, and that of those who take honours at a later age, a considerable proportion, as Mr. Beresford Hope pointed out, consists of veteran students from the Scotch Universities. It is well known that some of the ablest Professors in those Universities have been imported from Oxford and Cambridge; but it is not so well known that Oxford and Cambridge endowments serve to reward successful careers at Edinburgh and Glasgow, St. Andrew's and Aberdeen. Not to speak of Balliol, to which are attached fourteen valuable Exhibitions from Glasgow University, the names of three Scotchmen appear in the "Oxford Calendar" of 1875 among the Fellows of my own College (Merton), and a very little inquiry would prove that Scotland is thus largely indebted to Oxford and Cambridge for the encouragement of advanced study in her own Universities. The statement that Scholarships have not been found necessary in the Universities of Ireland and Scotland is simply amazing to any one familiar with the evidence about Scotch "bursaries," and the history of the Queen's Colleges, but it is followed by another, which is far more than amazing. Speaking of Fellow-

ships, Mr. Playfair is reported to have said that "they were only given for three subjects—Greek, Latin, and Mathematics—because, out of three hundred Fellowships given during the last twenty years, only twelve were given for other subjects." If this statement refers exclusively to Cambridge, I must leave Cambridge men to deal with it, merely remarking that, as all University men are well aware, other subjects besides Greek, Latin, and Mathematics have long been included in the renowned Fellowship examinations at Trinity College. I infer, however, from the context that it refers also to Oxford; and, if so, I am at a loss to understand how Mr. Playfair can have been so grossly misinformed. Can he really be ignorant that ancient and modern Philosophy, ancient and modern History, Logic, Political Economy, and even more ornamental subjects, are freely recognized in Oxford Fellowship Examinations; that all the Fellowships at All Souls' College are now appropriated to Law and Modern History; and that in the competition for Classical Fellowships the best scholar is constantly passed over in favour of a rival with more solid acquirements? If by "other subjects" Mr. Playfair means Physical Science, I can only say that within the last ten years two, if not three, Fellows have been elected at my own College alone upon a special examination in Physical Science; that we have also elected the Professors of Physics and Physiology to Merton Fellowships without examination (the latter deriving his stipend from a separate endowment); and that we yearly award one Scholarship for proficiency in Physical Science. I have, therefore, yet to be convinced that only twelve Fellowships have been allotted to Physical Science, while nothing will ever convince me, in the face of positive knowledge to the contrary, that only twelve Fellowships have been allotted to "other subjects" than Greek, Latin, and Mathematics. I further deny that "Oxford has a net income of about £400,000," or of anything approaching to £400,000. That sum represents in round numbers the gross income of Oxford, and it has been repeatedly shown that, in analyzing University revenues, the deductions to be made from gross income are prodigious.

There is one more passage in Mr. Playfair's speech which

I cannot forbear to notice. It is that in which he asserts that the University examination system "was originally introduced by the Jesuits, who imported it from China," and denounces "this Chinese system" as strangling originality, not in Oxford and Cambridge alone, but in all our Universities, Scotch as well as English. It would be interesting to know from what source this novel historical theory was derived. For my own part, I firmly believe, with Mr. Beresford Hope, that disputations were the mediæval prototype of regular examinations, first instituted at Oxford in the seventeenth century, and, further, that regular examinations are by far the best security for the industry both of University teachers and of University students. Assuredly, if the want of an examination test stimulates vigour of study, Oxford should have been a Paradise of original research during the last century, for the pass examinations were almost nominal, and the honour examinations had not been invented. Yet this was notoriously the Dark Age of Oxford history, when, as Gibbon testifies, the Professors had almost given up the pretence of teaching, and Adam Smith wrote those strictures on University education which have been so perversely misapplied to a wholly different order of things. He who fairly compares Oxford as it is with Oxford as it was before Sir Robert Peel obtained his double first class, will find little reason to regret the learning which the examination system is supposed to have "stifled."

Having been compelled to differ on so many points from Mr. Lyon Playfair, I would gratefully acknowledge his appreciation of the "progressive self-reforming spirit" which now prevails at both the old Universities, and his timely protest against the so-called Endowment of Research which has been mischievously ridiculed as a Professorial Research of Endowment. Though an eminent ex-Professor, he is one of those who hold that Professors were made for Universities, and not Universities for Professors; that education, and not self-culture, is their chief mission; and that no branch of study is the more sublime for being practically useless. He sees, moreover, that in the well-endowed Universities of England there is plenty of room for Tutors as well as for Professors; nor should I despair of inducing him to admit that, while the rhetorical method of teaching

generally pursued by the latter is being gradually superseded by the intelligent use of books, the catechetical, or tutorial, method of teaching is as effective as ever, and never likely to become obsolete.

I am, Sir, your obedient servant,

GEORGE C. BRODRICK.

London, July 8, 1876.

THE END.



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